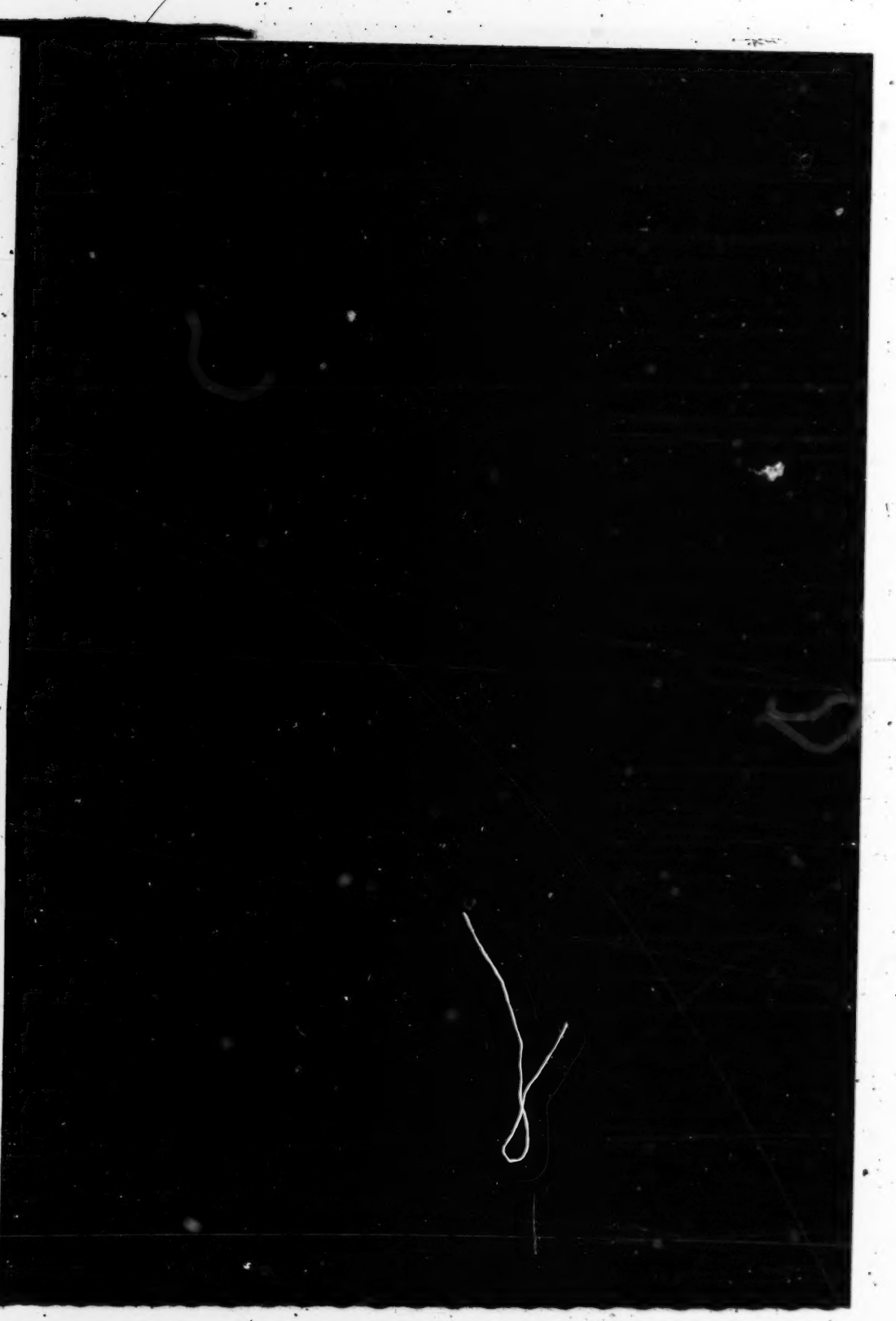


Nos. 10112, 10114, 10115, 10123

United States
Circuit Court of Appeals
For the Ninth Circuit.

No. 10112.
HEARST PUBLICATIONS, INCORPORATED,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

No. 10114.
STOCKHOLDERS PUBLISHING COMPANY, INC.,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

No. 10115.
HEARST PUBLICATIONS, INCORPORATED,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

No. 10123.
THE TIMES-MIRROR COMPANY, a corporation,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

Transcript of Record
In Four Volumes
VOLUME III
Pages 981 to 1475

Upon Petitions for Review and Enforcement of Orders of the National Labor Relations Board

ROTARY COLORPRINT, 590 FOLSOM ST., SAN FRANCISCO

Monday, June 17, 1940.

Met, pursuant to adjournment, at 9:30 o'clock a. m. [776]

MORRIS KLEIN

called as a witness by and on behalf of the Respondent, the Los Angeles Evening Herald & Express, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Compton): What is your address, Mr. Klein? A. 2623 West Boulevard.

Q. What is your occupation?

A. I sell newspapers at Second and Hill.

Q. How long have you been engaged in selling newspapers at Second and Hill?

A. At Second and Hill itself about three years. I was at Second and Broadway since 1933.

Q. What newspapers do you sell, Mr. Klein?

A. Well, the main newspapers are the Evening Herald and Express and the Daily News, which is the Evening News.

Q. Do you sell any of the morning papers? [778]

A. Yes, the Times and Examiner, and formerly the Morning News.

Q. Do you sell any papers in addition to those?

A. Yes, I sell the People's World and I used to sell the Ham and Eggs until it ceased publication.

(Testimony of Morris Klein.)

Q. Do you sell any magazines?

A. Yes. Liberty, Post, Colliers, and Look.

Q. Do you sell the Mid-Winter Edition of any of the Newspapers?

A. I sell the Mid-Winter Edition of the Times when it comes out, and I also handle folders and post cards when they come out the first of every year.

Q. Do you have any assistants on your corner?

A. Yes. I have two youngsters that work for me after school.

Q. How do you pay them, Mr. Klein?

A. My corner is a funny proposition. I have a delivery route, see, and I have one boy to cover my corner while I deliver, and I have one boy in traffic that works two hours for me, and I pay him thirty-five cents an hour. In other words, it just about covers what he sells in traffic.

Q. How do you pay your relief man, Mr. Klein?

A. Pay our relief man according to the hours he works. I pay him thirty cents an hour. He sells about thirty cents an hour of papers, so I usually give him about thirty cents an hour. [779]

Cross Examination

Q. (By Mr. Mouritsen): These copies of the Times, Examiner and News that you sell, they are just a few copies left over from the morning boys, isn't that right? A. Yes, sir.

Q. And you sell approximately how many of those copies a day?

(Testimony of Morris Klein.)

A. Well, sometimes I sell two of each a day, and sometimes I don't sell any. Two of each, about the most.

Q. And about how many copies of the Evening Herald and Express on an average do you sell a day? A. I should say about 390.

Q. And the News?

A. The News ranges between 200 and two and a quarter.

Q. Do you receive a check from the Herald and Express? A. No, sir.

Q. Or from the News? A. No, sir.

Q. Do you have any other boys on that spot other than the two you have mentioned?

A. Well, I have the relief man every once in a while that I mentioned before.

Q. Who is your Herald and Express district manager? A. Joe Woods. [780]

Q. (By Mr. Mouritsen): As a general practice, what papers do you hold in your hands and arms while you are operating during the day?

A. I hold a Herald and the News in my hands.

Q. (By Mr. Mouritsen): How do you display those papers?

A. Well, the system I work with, I am impartial. I hold the Herald on the outside and the News on the inside, as they are the larger paper. I don't give any display to any particular paper. I just hold them both under my arm.

(Testimony of Morris Klein.)

Q. Mr. Klein, while you are making deliveries, is it necessary that you keep your corner covered with your relief man?

A. Well, it is the best practice. Of course, there is no compulsion, but if you don't cover it the best you can with your relief man, it is to your own regret, because customers will pass through you. [781]

Redirect Examination

Q. (By Mr. Compton): Are you at present a member of the Newsboys Union? A. Yes, sir.

Q. Did you ever hold office in the Newsboys Union? A. Yes.

Q. What was that office?

A. I was first president and—no, secretary, president, and a member of the board of directors.

Recross Examination

Q. (By Mr. Mouritsen): Mr. Klein, the Newsboys Union is affiliated with the CIO, isn't if?

A. Yes.

Q. During what period were you president of the Newsboys Union?

A. I can't say exactly, but I was third president of the union, the third term, third administration.

Q. Was that during the year 1937?

A. Approximately during the year 1937.

Q. While you were president, you had a number of conferences with the representatives of the

(Testimony of Morris Klein.)

A. Yes, I did have conferences.

Q. And did the representatives include representatives of the Examiner?

A. No. At the time I talked to the Evening Herald and Express, I only talked to representatives of the Evening Herald and Express. In other words, we talked to different representatives at a time. Yes, there was one meeting where we did have all the representatives of all the papers. That was a meeting in Mr. Keeler's office at the Evening Herald and Express, in which representatives of all papers were present.

Q. Will you name those other papers?

A. As well as I can remember, Mr. Logan from the Examiner, Mr. Harrison and Mr. Keeler and Mr. Dunsmore from the Herald and Express, and Mr. Bob Smith from the News. I don't believe the Times was represented. I am not sure.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of the witness Morris Klein, with the exception of the testimony that he gave relating to conferences while president of the Newsboys Union with representatives of the [783] newspapers, has no application to the Times Mirror case?

Mr. Mourtisen: With the exception of that por-

tion of his testimony relative to the affiliation of the organization.

Mr. Cosgrove: With the C.I.O., yes.

Mr. Mouritsen: Yes, that is so stipulated.

HARRY PLOTKIN

recalled as a witness by and on behalf of the Respondent, the Evening Herald and Express, and having been previously duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hamblin) When you testified here before, Mr. Plotkin, I believe you stated you were district manager for the Los Angeles Evening Herald and Express? A. That is correct.

Q. Will you state again what is your district?

A. Where my territory is?

Q. Yes.

A. My territory runs from 54th to Manchester and from Broadway to Crenshaw.

Q. Are you acquainted with a newsboy named Sam Kahn? A. Yes. [784]

Q. What corner does he sell papers from, if you know?

A. At Florence and Broadway.

Q. Is that within the territory you have just described? A. Yes.

Q. Now, for your information, Mr. Plotkin, Sam Kahn testified in this proceeding that—Sam Kahn

(Testimony of Harry Plotkin.)

testified in this proceeding on Friday, June 14, and I want to refer you to a conversation to which Mr. Kahn testified on that day. He referred to a conversation between you and himself which took place about two years or a little over ago on the corner of Florence and Broadway, and he testified with reference to the matter of hours on the corner as follows:

"Q. I am reading from Page 643, line 14, of the transcript, stating at Line 16.—"Do you remember the exact words that Mr. Plotkin used on that occasion?

"A. Well, as far as I can remember, he said that my hours were from ten in the morning until eight in the evening. I know I have to stay there until eight o'clock, no later.

"Q. Are those the exact words he used?

"A. Well, I don't remember whether they were the exact words, but I know that he told me to stay there until eight o'clock."

Do you recall having a conversation with Sam Kahn about two years, or thereabouts, ago on the corner of Florence and Broadway at or about the time he commenced to sell papers on that corner? [785]

A. Not at the corner of Florence and Broadway, no, sir.

Q. Do you recall any conversation or discussion with Mr. Kahn at the time he commenced to sell papers within your district? A. Yes, sir.

(Testimony of Harry Plotkin.)

Q. Did you state to him at that time in substance and effect that his hours were from ten o'clock in the morning until eight in the evening?

A. No, sir.

Q. Did you state to him in substance and effect that he had to stay there until eight o'clock at night?

A. I didn't state to him that he had to stay there until eight o'clock in the evening.

Q. Do you recall the conversation or discussion that you had with him at the time he commenced to sell papers within the district you have described?

A. Quite clearly, yes.

Q. (By Mr. Hamblin) Do you recall where this conversation took place?

A. At 5514 South Figueroa, the Herald branch.

Q. And about when was that conversation? [786]

A. The morning that he came down on the truck with the papers to take over the corner.

Q. About how long ago was that?

A. Well, that I couldn't state definitely. I don't——

Q. Well, can you state approximately?

A. Possibly, approximately two years ago, or somewhere in the neighborhood of that.

Q. Who was present at the time?

A. Sam Kahn and myself.

Q. Will you relate what conversation took place at that time and place?

A. Well, he was—he came out on the truck—I would like to state that Joe Woods called me one day

(Testimony of Harry Plotkin.)

and asked me if I had a corner open—he had a friend of his that he would like to sell papers, so at the time there wasn't anything open; all the corners were filled.

So I told him the first corner that was open I would be glad to get in touch with him and have the second man come out. So it happened at that morning there was a corner available, so he sent Sam Kahn out with the papers on the truck. So, I generally—at that time I was working from 9:30 in the morning, or when the first edition came out, so he rode out with me to the corner and I explained about how many papers that the corner generally sold, and naturally I took it for granted he knew what time the boys stayed on the corners, thinking that he [787] had been selling papers uptown, so I explained to him that the man that had been selling papers there previously generally stayed there until eight o'clock in the evening if he had papers; if he didn't he went home when he sold out.

And that was all the conversation in regard to what hours he had to stay. And knowing that he knew what time the first edition came out, being as he rode out with the truck, I didn't have to tell him what time to be on the corner or anything. [788]

Q. (By Mr. Hamblin) Mr. Plotkin, will you repeat the conversation you had with Mr. Kahn at the time and place mentioned, giving us only what you said on that occasion and what Mr. Kahn said, and leaving out anything else?

(Testimony of Harry Plotkin.)

A. Well, I just simply told him that he—I never made any reference to the time that he should come to work, because I took it for granted.

Q. That is the sort of thing that——

A. (Interrupting) I never mentioned what time he should come to work, and I told him that the man that sold papers there previously stayed there as a rule until eight o'clock, if he had papers to sell.

Q. Now, is that all you said to Mr. Kahn and all that Mr. Kahn said to you on this occasion?

A. In regard to hours, yes.

Q. (By Trial Examiner Kennedy) Did you say you did or did not mention what time he should come to work?

A. I did not mention what time he should come to work.

Q. Then you are telling us what you did not say. We are [789] asking you for what you did say.

A. Oh.

Q. (By Mr. Hamblin) Mr. Plotkin, do you recall an occasion in or about August, 1939, when you refused further to sell papers to Sam Kahn?

A. Yes, I do.

Q. Did you have any conversation with Mr. Kahn at or about that time, with reference to that subject?

A. Yes.

Q. Where did the conversation take place?

A. On the corner of Florence and Broadway.

Q. And who was present?

A. Sam Kahn and myself.

(Testimony of Harry Plotkin.)

Q. Will you state what the conversation was, that is, confining yourself to what you said and what Mr. Kahn said?

A. Well, I told Sam Kahn that I would refuse to supply him with papers any more, and he wanted to know why, and I told him that every time I came around with papers, or rode by, why, invariably he was not to be seen on the corner, and consequently in the evening, why, I would have difficulty in collecting the bill for the papers, and I just couldn't tolerate it any more, so I told him that if he couldn't pay his bill in the evening I would have to refuse to supply him with papers.

Q. I want to refer you once again to the conversation with [790] Sam Kahn when he first commenced to sell papers. Did you in the course of that conversation give Mr. Kahn any instructions as to the time when he should appear on his corner?

A. No, sir.

Q. Are you acquainted with a newsboy named David Kadesh? A. Yes, sir.

Q. Where does he sell papers?

A. At Manchester and Broadway.

Q. By the way, Mr. Plotkin, when did you become manager of the district that you have described? A. In June of 1932.

Q. And Manchester and Broadway is within that district where that corner is? A. Yes, sir.

Q. At the time you became district manager of this district in June of 1932, can you state whether

(Testimony of Harry Plotkin.)

or not David Kadesh was selling papers from that corner? A. He was.

Q. For your information, Mr. Kadesh testified in this proceeding on Thursday, June 13th. In the course of his testimony he mentioned a conversation with you which took place in the year 1939 at Broadway and Florence between yourself and Mr. Kadesh, and Mr. Kadesh's version of the conversation was as follows—I am reading from Page 453, commencing at Line 12: [791]

"Q. Will you tell us what was said at that time by yourself and by Mr. Plotkin?

"A. Well, I sold out the papers and I couldn't get any more at Figueroa and Manchester, and so I didn't have any. So I took the five minutes to eight street car and rode down to Florence and Broadway and about two minutes to eight Harry Plotkin came by there and he says, 'What are you doing over here so early?' So I explained to him that I sold out of papers and there was no use standing there on the corner until eight o'clock if I didn't have any papers to sell, so he got angry and started to give me the devil for it.

"Q. What did he say, Mr. Kadesh?

"A. Well, he said, 'You know better than to quit before eight,' and so he didn't believe me, and he rode down there with a car to see if I had any papers, to see if I left any papers on the corner and went away before time. Well, when he got there there wasn't any papers."

(Testimony of Harry Plotkin.)

Do you remember having a conversation with Mr. Kadesh at approximately that time and place?

A. No, sir, I do not.

Q. Do you remember on any occasion stating to Mr. Kadesh in substance or effect, "You know better than to quit before eight o'clock?"

A. No, sir.

Q. Did you during the year 1939 have a regular route which [792] you followed in checking in newsboys or in making collections?

A. The same as I have right now.

Q. Will you explain what that route was and the approximate time when you normally are at David Kadesh's corner?

The Witness: I believe I stated in my testimony previously that I generally start in between 6:15 and 6:30 on my collections and wind up in the neighborhood of five minutes to eight or five minutes after eight at the corner of 54th and Crenshaw, which is about six or seven miles from the corner mentioned in that conversation of Mr. Kadesh. I generally get to Mr. Kadesh's corner in the neighborhood of 7:00, five minutes of 7:00, ten minutes of 7:00, or anywhere up to a quarter after 7:00, and that is the last time I see him until the next day.

Q. Do you recall any occasion when you were collecting at Mr. Kadesh's corner at two minutes of 8:00, or approximately at that time, during the year 1939?

A. Not collecting there, no, sir.

Q. Can you state approximately where you are at

(Testimony of Harry Plotkin.)

two minutes to 8:00 or around eight o'clock in the normal course of your routine? A. Yes. [793]

Q. Will you so state?

A. I am generally anywhere from Slauson and Western up to Slauson and Crenshaw, 54th and Crenshaw, within one of those three corners at that time.

Q. Approximately how far is that from the corner of Manchester and Broadway?

A. Well, I should say a good five miles.

Q. Since you have been district manager of your present district, have you at any time refused to sell the Los Angeles Evening Herald and Express to David Kadesh? A. Not at any time.

Q. Have you at any time since you have been district manager of your present district threatened to refuse to sell Dave Kadesh further papers?

A. Never.

Q. I want to refer you to a conversation testified to by Mr. Kadesh. The conversation took place the latter part of 1939, at the corner of Manchester and Broadway, between yourself and Mr. Kadesh. His version of the conversation, omitting those portions that were stricken out, was as follows, and I am reading from Page 466, Line 10, of the transcript:

"But you don't remember what else he said?

"A. Yes. He told me the next time it happened that I got a couple of days layoff." [794]

Do you remember saying to Mr. Kadesh in substance or effect that the next time it happened he

(Testimony of Harry Plotkin.)

would get a couple of days layoff? Can you answer that question yes or no? A. No, sir.

Q. Do you remember making, in substance or effect, a statement to Mr. Kadesh such as he has testified to? A. No.

Q. Did you ever make such a statement?

A. Not to Dave Kadesh, no.

Cross Examination

Q. (By Mr. Mouritsen) Mr. Plotkin, before answering this last question regarding speaking to Mr. Kadesh about a layoff I note that you hesitated and smiled somewhat. Did you ever have a conversation similar to that in some way with Mr. Kadesh?

A. As far as Dave Kadesh is concerned, I would just like to state that if every man was as conscientious and as hard a worker as Dave Kadesh everything would be a pleasure; so there [795] is your answer to Dave Kadesh as far as I am concerned.

Q. I believe you stated in your testimony regarding Sam Kahn that he came out to the spot on a truck?

A. Came out to the branch office, yes, sir.

Q. And whose truck was that?

A. The Evening Herald's truck.

Q. Do the newsboys from time to time ride on that truck going to or from their spots?

A. It just happens—well, I will have to explain that to you if you will let me.

Q. Suppose you answer it either yes or no and then make your explanation.

(Testimony of Harry Plotkin.)

A. Well, it can be answered yes or no, both ways.

Q. Well, they do and they don't; is that right?

A. They do and they don't.

Q. All right. Now, you explain just what you mean.

A. Well, in several of the cases the boys that live around the downtown area, to save car fare they will come out with the papers in the morning on the truck, to save car fare. That is the only time. They are supposed, as a rule, to come out on the street car to their corners, or get out whichever way they can, but if they live near the Herald and they have a chance to save seven cents car fare they come out on the truck and they will let them ride out with them. That is all.

Q. And on occasions do they sometimes return to their homes, [796] where they live downtown, by the same means?

A. No, I don't know which way they go home because I very seldom see them leave their corners.

Q. In your direct examination by Mr. Hamblin you have given us all of the conversation that you recall having had with Red Kahn about the time he started to sell on that spot, is that right?

A. Yes, that is correct.

Redirect Examination

Q. (By Mr. Hamblin) Mr. Plotkin, will you describe the truck on which Sam Kahn rode to his corner, for me? A. To his corner?

(Testimony of Harry Plotkin.)

Q. Yes. Well, I will amend that—rode to the branch office.

A. Well, sometimes it is one of those little transportation trucks and sometimes it is a Ford touring car, whatever they happen to send out with the papers.

Q. Is it or is it not a fact that the truck makes several trips a day to the branch office?

A. Oh, yes, numerous trips.

Q. When does it make the last trip in the day to the branch office?

A. Well, I imagine in the neighborhood of 5:00 or 5:30.

Q. And after delivering the papers to the branch office, [797] after the last trip, what does the truck do?

A. Well, it is through for the day.

Q. By the way, Mr. Plotkin, are you a member of any labor organization? A. Yes.

Q. What organization?

A. The Los Angeles Newspaper Guild; a member of the American Newspaper Guild, and associated with the C. I. O.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Harry Plotkin given this morning has no application to the Times-Mirror case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: May the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated. [798]

PATRICK COMORRE

called as a witness by and on behalf of the Respondent, the Evening Herald and Express, and being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Compton) Mr. Comorre, what is your present occupation?

A. Well, with the exception of relieving the kid at Fifth and Spring several hours a day, why, I am unemployed.

Q. Relieving the kid at Fifth and Spring?

A. That is right.

Q. Who is that?

A. That is my brother-in-law.

Q. What is his name? A. Henry Powers.

Q. At or about January 21, 1939, were you a member of the Grievance Committee of the Newsboys Union? A. Well, I was the organizer.

Q. You were the organizer?

A. That is right.

Q. Do you recall having a conversation on the corner of Fifth and Spring, at or about the date I have just mentioned, with any representative of the Los Angeles Evening Herald and Express concerning the occupancy by this man Powers of the corner at Fifth and Spring? [799]

A. Well, if it is the time he went to work there, yes.

Q. You do recall having such a conversation?

A. Yes.

Mr. Compton: Mr. Reporter, will you please mark

(Testimony of Patrick Comorre.)

this the Evening Herald and Express exhibit for identification next in order?

(Thereupon, the document above referred to was marked for identification as Respondent's Exhibit No. 5.)

Q. (By Mr. Compton) I will hand you a document entitled "Bill of sale," being Herald's Exhibit 5 for identification, and ask you to state whether or not you have ever seen that document before.

A. Yes, sir, I believe I have. [800]

Q. Isn't that the copy of the bill of sale you delivered to Mr. Gordon Norton on the corner of Fifth and Spring on or about January 21, 1939?

A. I dont' think I gave it to Mr. Norton; I think the boy there gave it to him.

Q. Which boy? A. Henry Powers.

Q. Your brother-in-law? A. Yes.

Q. Did you see Mr. Powers deliver it to Mr. Norton? A. Yes. I was there.

Q. Did you ever see the original of the bill of sale of which that purports to be a copy?

A. Well, yes, sir.

Q. As a matter of fact, weren't you instrumental in arranging the sale? [801]

The Witness: Well, naturally, being organizer of the Union, I was implicated in the—whatever the—you are referring to him not being able to get on that corner after he had purchased the corner?

Q. (By Mr. Compton) No. I asked you about

(Testimony of Patrick Comorre.)

the sale, Mr. Comorre. I said, weren't you instrumental in arranging the sale, the purchase of the corner from Mae Williams?

A. Well, I went with the group that was with the —witnessed the purchase of the corner.

Q. Will you state just what occurred? Will you describe how that was arranged, Mr. Comorre?

A. Well, you mean—now, what are you referring to?

Q. You say a group went some place and arranged the sale. Now, I want to know what happened at that time, when it was and what occurred.

A. Well, my understanding is that he would find out what time the corner was open, and that he was —he had been selling papers for the News at the Stadium, from Martinez, and he wanted to buy this corner.

Q. And how did he go to purchase the corner, Mr. Comorre?

A. Well, he—this woman, I believe that is her name there—it is my understanding that he knew her, and he asked her if she would sell him the corner. [802]

Q. Who was this woman, Mr. Comorre?

A. It was the daughter of the man that was selling papers there before.

Q. The man known as the blind man, on that corner? A. That is right.

Q. Do you know what had happened to the blind man? A. He had died.

(Testimony of Patrick Comorre.)

Q. He had died? A. That is right.

Q. And consequently that corner was, as you say, open? A. That is right.

Q. And did you go with Mr. Powers to discuss the purchase of the corner with Mae Williams?

A. No, I didn't.

Q. Do you know who went with him?

A. Oh, when the money was paid over, I was there.

Q. Oh, you were there. Where was that?

A. That was out at the sanitarium.

Q. What sanitarium?

A. Well, out here at the Olive View Sanitarium —not Olive View, but up in Glendale; it was the— the hospital.

Q. Was Mae Williams a patient there?

A. Yes, she was.

Q. You say she was the daughter of the blind man who had formerly sold papers on that corner? [803]

A. Well, according to her own statements.

Q. Do you know who prepared this bill of sale, Mr. Comorre? A. Carey McWilliams.

Q. Carey McWilliams. He is an attorney at law in the city of Los Angeles?

A. That is right.

Q. And you say you saw the consideration pass?

A. Yes, sir, I did.

Q. How much was paid for the corner, Mr. Comorre?

(Testimony of Patrick Comorre.)

A. $150, I believe. Not all in cash, but I believe that is—the full amount of it, that is what it amounted to.

Q. And on your recollection of the original of the bill of sale, would you say in your opinion that that is a true and correct copy of that bill of sale? A. Yes, I believe so.

Q. And that you believe is the copy of the bill of sale which either you or Mr. Powers delivered to a representative of the Los Angeles Evening Herald and Express on or about that date, on the corner of Fifth and Spring?

A. I believe so.

Mr. Compton: At this time I offer Herald Exhibit No. 5.

Trial Examiner Kennedy: Is there any objection?

Mr. Mouritsen: Objected to on the ground of lack of foundation, Mr. Examiner.

Trial Examiner Kennedy: Received. [804]

(Thereupon, the document above referred to was received in evidence and marked as Respondent's Exhibit No. 5.)

Q. (By Mr. Compton) Mr. Comorre, I will hand you Herald and Express Exhibit 6 for identification, being a note dated January 21, 1939, addressed "Dear Nick," and signed "Mae Williams" on the back of a receipt blank, and ask

(Testimony of Patrick Comorre.)

you to state whether or not you have ever seen that document before. A. Yes.

(Thereupon, the document above referred to was marked as Respondent's Exhibit No. 6 for Identification.)

Q. (By Mr. Compton) Do you know a man named Nickerson? A. I do.

Q. Was Mr. Nickerson—well, can you state at or about that time what Mr. Nickerson's occupation was?

A. Yes. He was selling papers there.

Q. On the corner of Fifth and Spring?

A. That is right.

Q. Do you know whether or not he was employed by the blind man? [805]

A. From my recollection, I think he was the relief man for the blind man—that is right.

Q. And will you state where and under what circumstances you saw this document Herald and Express Exhibit No. 6 for identification?

A. Where I saw it?

Q. Yes.

A. Well, it was presented, I believe, to—I mean I think Henry Powers—Harry Powers—or known as Harry Powers—gave this to Nickerson that particular morning, whatever it would be.

Q. That same morning?

A. Yes. To let him know that he had bought the corner.

(Testimony of Patrick Comorre.)

Q. Did you see Mae Williams write that note?

A. No, I didn't see her write the note.

Q. But you did see that note that morning?

A. I saw that note that morning, yes. That was the first time I saw it, when they refused to give Henry Powers the papers. That is when I came in on the picture and saw that note.

Q. Mr. Comorre, you state that you relieve on the corner of Fifth and Spring. Isn't it a fact that at least for the last month or so you have been selling papers regularly there every day in the late hours of the day?

A. In the evening, yes. I relieve in the evening. [806]

Q. Do you have any assistants there on that corner?

A. Do I have any assistants?

Q. Yes.

A. Well, most of the time Powers himself was there too. He works in the zone, or I work in the zone, or vice versa.

Q. Is there anyone else works that particular corner?

A. Once in a while when I am not there, or Powers is not there, why, my eldest boy works there; that is, in the zone.

Q. Have you ever, Mr. Comorre, asked the permission of any representative of the Herald and Express to work on that corner, or to have your boy work on the corner, or anything of that sort?

(Testimony of Patrick Comorre.)

A. Have I ever asked permission?

Q. Yes.

A. From the Herald and Express authorities?

Q. Yes. A. No, I have not.

Q. Mr. Powers puts on that corner whoever he desires, doesn't he?

A. Well, yes, for relief. I imagine so.

Cross Examination

Q. By Mr. Mouritsen) Mr. Comorre, at or about the time that Powers began selling on that corner, were you present at any conference or conversation that took place between Mr. [807] Powers and a representative of the Evening Herald and Express? A. I was.

Q. And was there more than one such conference?

A. Well, not that I was present at, no.

Q. Well, where did the one at which you were present take place?

A. At Fifth and Spring.

Q. Who was present?

A. A person by the name of Gus Georgan and Nickerson—a boy—the man that was selling papers there at that time, and Mr. Norton from the Express.

Q. Is that Gordon F. Norton?

A. That is correct.

Q. You were there?

A. Naturally, I was there.

Q. Was Mr. Powers present?

(Testimony of Patrick Comorre.)

A. Yes, Mr. Powers.

Q. Now, will you relate what occurred at that time and what was done and said by the people present?

A. Well, could I say why I was there and then tell you what happened?

Q. Well, in what capacity were you present?

A. As a representative of the Union.

Q. And had anything occurred prior to that time? A. Yes. [808]

Q. That caused you to be on that corner at that time?

A. That is right. That is why I was there.

Q. And what had occurred prior to that time?

Mr. Comorre, you just tell us what was done and said at this conference where Mr. Norton was present, and you and the other people you have named.

A. I should start at that corner, where we was out there?

Q. Yes, just tell us the conversation.

A. Well, I got there—how I happened to be there was that Mr. Norton—I am getting ahead of my story.

Q. You just tell us what was said and done at this conference and we will get the rest later.

A. All right. Well, it is pretty hard to get at the begin- [809] ning of it. Well, when we arrived at the corner Mr. Norton says, "What is the trouble here, Pat?" and I says, "Well, it seems to

(Testimony of Patrick Comorre.)

me this boy bought the corner and Solly Epstein refuses to give him papers."

Q. When you say "this boy," to whom do you refer? A. Henry Powers.

Q. Go ahead.

A. And I said, "What is the reason?" He said, "Well," he says, "Our policy is that we want the boys selling papers that know how to sell papers, and also clean-cut fellows to represent our papers. We don't want just any bum at all on the corners." And I said, "Well, if you look for yourself I think this boy is very clean and he looks like he could represent the paper well." And I said, "He has had some experience selling papers for Martinez at the Coliseum and also out at North Broadway on the News."

"Well," he says, "we got to be very careful who occupies this corner," and he said, "How long have you been in town, in California?" and I think he told him, "about two years;" and he asked him if he had any experience. He asked him questions I referred to, and if he could sell papers and how long he had sold papers and stuff like that, and then he took his name and address and he told Mr. Nickerson, he said, "Mr. Nickerson, we might as well let the boy work here; he looks all right; and I will get you another spot in my district. I [810] will find something for you."

Q. Now, is that about all the conversation that occurred?

(Testimony of Patrick Comorre.)

A. Well, he and I agreed that would be the best thing to do in order to not have any dispute about the boy occupying the corner, for the best interests of all concerned, including who I represented and who he represented, and so forth and so on.

Q. Prior to that time did you observe what the situation was on that corner with reference to any newsboy handling the paper? Do you understand?

A. No, I don't understand the question, Mr. Mouritsen.

Q. Prior to the time when you had this conversation did you see one or more boys selling papers on that corner for the Evening Herald and Express?

A. On that particular corner?

Q. Yes.

A. From time to time previous to that?

Q. Yes. A. Yes, I have.

Q. Now, how many boys were there selling papers on the corner there?

A. Well, Nickerson wasn't there. He was there most of the time, and whenever he wasn't available they would have someone else. The blind man would have someone else to relieve him. [811]

Q. I mean just a few days prior to this conversation. I will ask you if Mr. Nickerson wasn't selling papers on that corner.

A. Oh, yes, he was. During the time between

(Testimony of Patrick Comorre.)

the time the blind man died and the time the corner was turned over to Henry Powers, as far as I know. That is, I passed there practically every day and I saw him working there during that time, most of the time.

Q. (By Mr. Compton) Mr. Comorre, recalling your mind to that conversation between Mr. Norton—didn't Mr. Norton also say that it was necessary to assure himself that the man was [812] a good credit risk?

A. Yes, I believe so. I think he said that.

Q. And at this same time that this conversation took place, Herald Exhibit No. 5 was delivered, wasn't it? It was at this same time, wasn't it, the bill of sale?

A. Exhibit 5, the bill of sale?

Q. Yes, the bill of sale.

A. Well, that was probably the second time it was delivered. I understood it was delivered before.

Q. I mean this particular one.

A. At this particular time, that morning?

Q. Yes. A. I believe so.

Q. Mr. Powers, the purchaser of the corner under the bill of sale, Herald Exhibit No. 5, is still as far as you know occupying the corner?

A. Yes, he is.

Q. And as a matter of fact, you are relieving for him, aren't you? A. Well, yes. [813]

(Testimony of Patrick Comorre.)

Cross Examination

Q. (By Mr. L. B. Binford) Mr. Comorre, how do you determine what time you go to work as relief man?

A. How do I determine that?

Q. Yes.

A. Well, just whenever there ain't anyone else there to relieve him, he asks me to come down.

Q. I can't hear you.

A. It all depends. If there is someone else there I don't have to relieve. If there isn't, I do relieve.

Q. You go to work whenever you want to as relief man? A. Yes. Sure. [817]

Q. You have spoken about the C. I. O. Council. Now, what is that?

A. Well, the C. I. O. Council is a group set up of delegates from practically every C. I. O. union in this territory—Southern California.

Q. Does the Newsboys Guild have a representative on that council?

A. Yes, sir, they do. They did have. I suppose they still have. [822]

Mr. Compton: At this time, if the Examiner please, for the purpose of correcting the record of the testimony apparently based on a misapprehension of facts, the Board's attorney and the representative of the Newsboys Union and I have agreed upon a stipulation of fact which we will

(Testimony of Patrick Comorre.)

read into the record, designed to correct the erroneous testimony of previous witnesses.

Mr. Cosgrove: If the Examiner please, before you do that may it be stipulated, Mr. Mouritsen, that the testimony of the witness Patrick Comorre as given this morning, with the exception of the testimony relating to Board's Exhibit No. 4 for identification, and with the exception of the testimony given in response to questions asked by the Examiner, have no relation to the Times-Mirror case?

Mr. Mouritsen: And if there was any other—excepting also any other testimony going to the nature and activities of the organization at that time.

Mr. Cosgrove: Well, I did not think there was. I thought it was confined to your examination relating to this exhibit No. 4. But if there was any, that is also stipulated.

Mr. Mouritsen: Very well.

Mr. Cosgrove: These exclusions may also be stipulated.

Trial Examiner Kennedy: Proceed.

Mr. Compton: (Reading) "It is hereby stipulated and [823] agreed by and between the attorney for the Labor Board, the attorneys for the Los Angeles Evening Herald and Express Department, Hearst Publications, Inc., and by the representatives of the Newsboys Union, Mr. Comorre and Mr. Eley, that the testimony of W. J. Harrison

(Testimony of Patrick Comorre.)

concerning the date of the beginning of joint selling operations by newsboys of the News and of the Herald and Express was based on his recollection alone; that he had in his files no documents or data establishing that date, and had not attempted to refresh his recollection thereon prior to his testimony concerning the same; that his testimony, based on his recollection as aforesaid, was and is incorrect, and that his testimony concerning his belief that the joint selling operations were desirable by reason of a proposed change in prices of the two newspapers, was based on this misapprehension of the two dates, and was and is incorrect; that his attention was first drawn to the possibility of error in his testimony by the testimony of Milton Newman on Saturday, June 15, 1940; that he thereafter, and on Saturday afternoon, inquired and learned that the Stockholders Publishing Company, publisher of the News, had records indicating that joint sales first started on or about August 25, 1937; that it is his present belief that said joint selling operations started on August 25, 1937; that his records indicate that he first received knowledge of a proposed change in the price of the Herald and Express in [824] the early part of October, 1937; that he first received definite information that such price raise would go into effect on October 18, 1937; that the proposed price raise of the Herald and Express was publicly announced in the columns of that paper on October

(Testimony of Patrick Comorre.)

22, 1937; that the price raise actually did go into effect November 1st, 1937; that the testimony of other witnesses that the date of beginning joint operations was other than August 25, 1937; was based upon the same misapprehension and was and is incorrect; that the testimony of said W. J. Harrison and other witnesses so testifying regarding such dates may be deemed corrected in accordance herewith."

Mr. Mouritsen: That may be so stipulated.

Mr. Comorre: That may be so stipulated for the union.

Mr. Compton: I now have to offer an amendment to my own stipulation. The date when the first price raise—the date when the price raise was first publicly announced was not October 22 but October 21, 1937.

Trial Examiner Kennedy: That is agreeable, I take it?

Mr. Mouritsen: Yes, that is agreeable. [825]

GORDON NORTON

recalled as a witness by and on behalf of the respondent, the Evening Herald and Express, having been previously duly sworn, resumed the stand and testified further as follows:

Direct Examination

Q. (By Mr. Compton) Mr. Norton, are you an employee of the Los Angeles Evening Herald and Express? A. No, sir.

(Testimony of Gordon Norton.)

Q. What is your connection with that organization?

A. I am a dealer for the Los Angeles Evening Herald and Express.

Q. And as such dealer, in what territory do you operate?

A. Roughly, between Figueroa and Western and Sixth and Twelfth in the city of Los Angeles.

Q. How long have you operated as such dealer?

A. Since September, 1936. [826]

Q. Will you state what occurred when you first entered into the occupation or entered into this dealership arrangement? Did you have a conversation with any person in the Los Angeles Evening Herald and Express? A. Yes, sir.

Q. And with whom?

A. Mr. Harrison, then and now circulation manager.

Q. Can you tell approximately what date you had such conversation?

A. In the early part of September, 1936.

Q. And where was that conversation?

A. At the Evening Herald and Express Building.

Q. Who was present at such conversation?

A. Mr. Harrison and myself. [827]

Q. Will you state as accurately as you can what you said to Mr. Harrison and what Mr. Harrison said to you during such conversation?

A. Mr. Harrison reminded me that one James

(Testimony of Gordon Norton.)

Potts was quitting the dealer business and asked me if I cared to take over the district, and I said that I did and I would.

Q. What, if anything, was said by Mr. Harrison or by you concerning the method of handling such dealership territory?

A. I asked Mr. Harrison how the territory was operated. He told me that I would receive my papers at a certain rate and would resell them at the stipulated Herald wholesale rate and that there would be an allowance for certain expenses in the district. I agreed to those terms and have operated under them.

Q. Now, you purchase your papers at a rate under the so-called established wholesale rate of the Herald, do you not? [828] A. That is right.

Q. And you resell to vendors in your district at the so-called established wholesale rate?

A. Yes, sir.

Q. And do you have any credit losses in your district? A. Yes, sir.

Q. Who assumes such credit losses?

A. I do.

Q. How do you make any profits on the dealership territory?

A. From the difference between the price I pay for the papers and the price at which I sell them.

Q. Who, if anyone, places corner boys in your territory?

(Testimony of Gordon Norton.)

A. Myself or the men who work for me and under me.

Q. How many employees have you working for you or under you?

A. I have one man who works under me as an assistant and one other who distributes the papers for me.

Q. Is any allowance made for you for the expenses on the salaries of these men?

A. Yes, sir.

Q. What is the allowance?

A. Approximately forty-seven dollars a week.

Q. Do you know of your own knowledge how that allowance is made? A. Yes, sir. [829]

Q. How is it made?

A. It is made in the form of checks from the Evening Herald and Express.

Q. Do those checks go directly to you or to your employees?

A. I get the checks from the cashier and distribute them to the men in my district.

Q. At or about the time you took over this [830] dealership territory or any time thereafter, did you have any discussion with Mr. Harrison concerning how and in what manner district men in your district should be compensated? A. Yes, sir.

Q. Do you recall when such conversation took place?

A. At the time we raised the price of the paper to five cents retail.

(Testimony of Gordon Norton.)

Q. That was about November, 1937?

A. That is right.

Q. Where did such conversation take place?

A. At the office of the Evening Herald and Express.

Q. Who was present?

A. Mr. Harrison and myself.

Q. Will you state what was said by Mr. Harrison and what was said by you?

A. I stated to Mr. Harrison that in view of the fact that the wholesale rate of the paper was to be changed to the boys, that my rate should be adjusted, and he told me to estimate what I thought my draw would be after the change, and we would try to arrive at some new rate so that we could establish it on that basis.

I then asked if he wanted to continue the arrangement of paying my helper and other assistants the same as it had been, or if he wanted to change it into a one check basis. He said, "no," that he thought it would be better if we continued it [831] just as it was and had been for years.

Q. Do you hire and fire the district men employed by you, Mr. Norton? A. Yes, sir.

Q. Do you know of your own knowledge what concern or person is listed on the records of the Social Security Board as the employer of these two particular district men? A. No, sir.

Q. Mr. Norton, why do you not pay these men by check yourself?

The Witness: Because of the bookkeeping that

(Testimony of Gordon Norton.)

would fall upon me if I did so. As long as the Herald is allowing me [832] a certain amount per week and I turn it over to the men eventually, I thought it would be better if the Herald paid them by check and therefore they would do the book-keeping and keep the records of the money that I spend.

Q. (By Mr. Compton) And that is the actual manner in which the men—the two district men concerning whom you have testified are paid?

A. That is right.

Cross Examination

Q. (By Mr. Mouritsen) What are the names of your district men, Mr. Norton?

A. I have one district man named Tony Bacigalupi.

A. That is right. I call him Tony. The other man who works for me merely distributes some papers for me, and his name is Joe Kanter.

Q. Now, you call Mr. Tony, your assistant, is that right? [833] A. That is right.

Q. Now, these allowances that you state you received are made in the form of checks that are paid to these two men, is that correct?

A. That is partially true.

Q. In other words, the Herald and Express turns over to you a check for Joe Kanter and one for Tony? A. That is right.

Q. Those are made out to Tony?——

A. Bacigalupi.

Q. Yes. That is right, Bacigalupi; and Joe Kanter, respectively? A. That is right.

(Testimony of Gordon Norton.)

Q. Now, Mr. Norton, you also have in your district a number of these so-called check men or wholesalers? A. Yes, sir.

Q. How are the checks that these men receive delivered to them, if you know?

A. By me or my assistants.

Q. The Herald and Express turns them over to you, and you in turn turn them over?

A. Yes, sir.

Q. And those checks are made out to the men to whom you deliver them, is that correct?

A. That is right. [834]

Q. How many such check men do you have in your district? A. Eight.

Q. Do you have any other check men in your district other than these check men who perform duties similar to those performed by check men?

A. Not that I know of.

Q. In other words, all of the men in your district who perform what might be called the wholesale operations receive checks from the Evening Herald and Express, is that correct?

A. No, that is not correct.

Q. Well, now, let's see. You have eight district men in your district, is that correct?

A. I have eight men, who are listed as wholesalers with us—that is, with the Evening Herald and Express.

Q. And you have no others in your district who perform duties similar to those performed by check men or wholesalers, is that correct?

(Testimony of Gordon Norton.)

A. I have boys who perform similar—who do—I don't understand your question exactly, so it is rather hard to tell you exactly what I mean in that case.

Q. Well, now, these so-called check men or wholesalers receive papers from Bacigalupi and Joe Kanter, is that correct? A. Yes. [835]

Q. And check men or wholesalers receive a number of papers that they themselves do not sell, but in turn go out to the other boys?

A. Yes.

Q. After the selling period then they collect from those boys and they return the money that they have collected from the other boys, together with the money they themselves have made from the sale of papers, turn that back to Bacigalupi and Joe Kanter? A. Yes.

Q. Now, do you have any other boys who perform such duties other than these eight that you have mentioned?

A. I have boys who do a similar type of occupation, yes, whatever you call it.

Q. Well, how many in addition to the eight?

A. I can't answer that exactly. A few.

Q. You have no idea of the number of such boys in your district?

A. If you want to take the time I will stop and think about it and give you a rough estimate of it. [836]

Q. (By Mr. Mouritsen) And when you spoke

(Testimony of Gordon Norton.)

of the established price regarding the Evening Herald and Express, what did you mean by that expression?

A. Do you mean the wholesale or the retail price?

Q. Well, Mr. Norton, you used the expression. Now I would like to know what you meant by it.

A. If I was using it in speaking of selling to the general public, I mean the advertised price and the price that has grown up by custom.

Q. And with reference to any other price?

A. If I mean the established wholesale price to the boys, I would mean the price to the boys for the papers that they buy from the Evening Herald and Express.

Q. And I believe you stated that the price was changed in [837] your district during—on or about November 1, 1937, is that correct? That is, the wholesale price? A. Yes, sir.

Q. Now, other than your work in this district, do you perform other or any duties for the Evening Herald and Express?

A. No other duties.

Q. You were present, were you not, at a conference that took place between representatives of the Newsboys Union, yourself, and one Mr. Nickerson, on or about January 21, 1939?

A. Yes, sir.

Q. That conversation took place in a district not your own; is that correct?

(Testimony of Gordon Norton.)

A. That is correct.

Q. It concerned the sale of papers on a corner not within your district? A. That is right.

Q. How did it occur that you took part in that conversation or that conference?

A. At the request of Mr. Harrison, Circulation Manager of the Evening Herald and Express.

Q. And you took the boy Nickerson there involved and gave him a corner in your district, is that correct? A. Yes, sir.

Q. Was that also at the request of Mr. Harrison of the Evening Herald and Express? [838]

A. No, sir.

Q. The checks that these newsboys—that you deliver to these check men or wholesalers are the checks of the Evening Herald and Express and not your own, isn't that correct?

A. That is right.

Mr. Mouritsen: And, Mr. Compton, will it be stipulated that the deductions for Social Security and Unemployment are made from the checks that these particular check men receive?

Mr. Compton: It will be so stipulated.

Mr. Mouritsen: And also from the checks received by Bacigalupi and Kanter?

Mr. Compton: It will be so stipulated.

Mr. Mouritsen: May we have a stipulation regarding the name of the employer registered with the Social Security, or will I have to get those?

Mr. Compton: That is quite correct; they are

(Testimony of Gordon Norton.)

on the Herald and Express payroll and they are so listed.

Q. (By Mr. Mouritsen) Did a man, a Mr. Blake, at one time act as your assistant?

A. Yes, sir.

Q. And during what period?

A. Well, it would have to be approximate. From 1938 to sometime in 1938—approximately a year.

Q. What was his first name, or his initials?

A. Jimmy Blake. [839]

Q. Jimmy Blake. Nothing further.

Redirect Examination

Q. (By Mr. Compton) Mr. Norton, it is my recollection that Mr. Mouritsen asked you a question which led you to say that the so-called wholesalers turn over to the district men the amount of money that they receive for the newspapers from the other boys and what they make. The newsboys turn over to the wholesalers only the wholesale price of the newspapers; isn't that correct?

A. That is right.

Q. And the wholesalers, in turn, turn over only the wholesale price of the newspapers which they purchase? A. That is right.

Q. And all the amounts that they make, or earn, they keep themselves, don't they?

A. I imagine so.

Mr. Cosgrove: If the Examiner please, may we stipulate [840] before the recess with Mr. Mourit-

sen, if it is agreeable that that testimony given by Mr. Norton this morning is not applicable to the Times case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: May we have the same stipulation for the Los Angeles Examiner?

Mr. Mouritsen: Yes. So stipulated. [841]

Afternoon Session

(Whereupon, the hearing was resumed pursuant to recess, at 1:30 o'clock, p. m.)

MAURICE F. NICKERSON

called as a witness by and on behalf of the respondent, the Herald and Express, being first duly sworn, testified as follows:

Trial Examiner Kennedy: What is your full name?

The Witness: Maurice F. Nickerson.

Direct Examination

Q. (By Mr. Compton) What is your address, please, Mr. Nickerson?

A. 108 West First.

Mr. Compton: May I have the exhibits, Mr. Reporter?

The Reporter: If the Examiner please, the other reporter [842] has not returned yet, and he has the key to the reporter's room and the exhibits are in there, and I am not able to secure them at this time.

(Testimony of Maurice F. Nickerson.)

Mr. Compton: May I make a suggestion? Mr. Mouritsen I think will be prepared to stipulate that that note, Evening Herald and Express Exhibit No. 6 for identification, was actually received by Mr. Nickerson on the corner on the day this controversy took place about the sale of the corner, and that was the only purpose I called the witness for, was to identify that note.

Trial Examiner Kennedy: Then if you do not have to have the exhibits, we can go ahead.

Mr. Compton: I need him for no other purpose, if the Examiner please, except just to identify that note.

Trial Examiner Kennedy: The hearing will be in session.

Mr. Compton: If the Examiner please, counsel for the Board has agreed to stipulate that the note, being Evening Herald and Express Exhibit No. 6 for identification, was actually delivered to the witness on the corner of Fifth and Spring at or about January 21, 1939, and that the note, Evening Herald and Express Exhibit No. 6 for identification, may be received in evidence.

Trial Examiner Kennedy: That may be done, if it is so stipulated.

Mr. Compton: That is all, Mr. Nickerson. [843]

(Thereupon, the document above referred to was received in evidence and marked as Respondent's Exhibit No. 6.)

(Testimony of Maurice F. Nickerson.)

Trial Examiner Kennedy: Is there any cross examination?

Cross Examination

Q. (By Mr. Mouritsen) Mr. Nickerson, are you a check man for the Herald and Express?

A. No, sir.

Q. You do not receive a check from them?

A. No, sir.

Q. Nor from the Daily News?

A. No, sir.

Q. I notice you are wearing a change apron. Did you receive that from the district manager of the Evening Herald and Express?

A. The apron?

Q. Yes. A. Yes.

Q. Upon what corner do you now operate?

A. Seventh and Alvarado.

Q. Who put you there? [844]

The Witness: Well, the Herald and Express.

Q. (By Mr. Mouritsen): That is Gordon Norton, is that right? A. No. [845]

Q. (By Mr. Mouritsen): What specific person connected with the Evening Herald and Express put you on that spot? A. Mr. Harrison.

Q. Circulation manager? A. Yes, sir.

Redirect Examination

Q. (By Mr. Compton): Mr. Nickerson, what time of the day do you customarily go on your corner? A. 9:30.

Q. And how late do you stay there ordinarily?

[846]

(Testimony of Maurice F. Nickerson.)

A. A quarter of eight; 7:30 or a quarter to eight.

Q. And you testified you don't receive any check from the Herald? A. No, sir.

Q. And none from the News? A. No, sir.

Q. That change apron which you are wearing, did you pay anything for that? A. No, sir.

Q. Was it given to you without any charge or cost? A. Yes, sir.

Q. Is it a convenience to you?

The Witness: Oh, certainly.

Q. (By Mr. Compton): And you have no objection to using it? A. No, sir.

Q. Have you had more than one change apron?

A. Several.

Q. You have never paid for any of them, have you? A. No, sir.

Q. As a matter of fact, you ask for them, don't you, Mr. Nickerson? A. Yes, sir.

Q. You sell the Evening Herald and Express?

[847]

A. Yes, sir.

Q. And the News?

A. The Daily News, Evening News.

Q. Do you sell any other newspapers?

A. When the Ham and Eggs was going I sold those.

Q. Do you sell any magazines?

A. Yes, magazines.

Q. What magazines do you sell?

(Testimony of Maurice F. Nickerson.)

A. Liberty, Post, Colliers and Look.

Recross Examination

Q. (By Mr. Mouritsen): Mr. Nickerson, how do you display the copies of the Herald and Express and the News that you handle? [848]

A. Well, I have two racks for the News and a Herald box to put the Heralds on and then I hold the others under my arm.

Q. Will you describe with more particularity the manner in which you hold them under your arm and their respective positions?

A. Well, I keep three or four of the News folded under my arm and the Heralds.

Q. The main spot boy on your corner is Philip Spampinato, is he not? A. Yes, sir.

Redirect Examination

Q. (By Mr. Compton): Mr. Nickerson, how long have you been on the corner where you are presently?

A. January 30, 1939, I come there.

Q. With what persons connected with the Los Angeles Evening Herald and Express did you discuss the matter of going on that corner, if any?

A. Mr. Norton.

Q. Did you ever at any time have any conversation with Mr. Harrison concerning that matter?

A. Well, yes, Mr. Norton sent me down there.

Q. Mr. Norton sent you down there?

A. Yes. [849]

(Testimony of Maurice F. Nickerson.)

Q. And that corner is in Mr. Norton's district, isn't it? A. Yes, sir.

Recross Examination

Q. (By Mr. L. B. Binford): Mr. Nickerson, these two racks that you speak of, they were furnished you by the News? A. Yes, sir.

Q. And what do you use them for?

A. For the News paper.

Q. To display the paper, isn't it?

A. Yes.

Q. It is a convenience to you? A. Sure.

Q. (By Mr. L. B. Binford): Did you pay anything for those racks to the News?

A. No, sir. [850]

Q. They were furnished you without any cost to you at all? A. Without any cost.

Q. And do they help you sell your papers?

A. Yes, sir.

Recross Examination

Q. (By Mr. Mouritsen): Mr. Nickerson, as a matter of fact, those racks were already on the corner when you came there, weren't they?

A. No, not these two that I have now They are new ones.

Q. Were they given to you by a News district manager?

A. No, by the man that brings the News around.

Q. Do you know his name?

A. At that time it was Andy. I don't know his last name.

(Testimony of Maurice F. Nickerson.)

Q. For the purpose of refreshing your recollection, was it Andy Barragan?

A. I wouldn't know his last name, sir.

Q. Who is your present News district man?

A. I don't know his name. [851]

Mr. Cosgrove: Will it be stipulated, Mr. Mouritsen, that the testimony of the witness Maurice Nickerson is not applicable to the Times-Mirror case?

Mr. Mouritsen: It may be so stipulated.

Mr. Mattson: I assume the same stipulation Mr. Cosgrove asked for can apply to the Examiner as well?

Mr. Mouritsen: That may be so stipulated.

WILLIAM J. HARRISON

recalled as a witness by and on behalf of the respondent, the Evening Herald and Express, and having been previously duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Compton): Mr. Harrison, you have previously testified, haven't you?

A. I have.

Q. And gave your name and address?

A. I did.

Q. How long have you been connected with the newspaper business, Mr. Harrison?

(Testimony of William J. Harrison.)

A. About forty-three years.

Q. And your present occupation is circulation manager of the Los Angeles Evening Herald and Express? A. That is true.

Q. How long have you been a circulation manager? [852] A. About thirty-six years.

Q. How long have you been circulation manager of the Los Angeles Evening Herald and Express?

A. Over twenty-eight years; near twenty-nine.

Q. At the time you first went with the Los Angeles Evening Herald and Express who was the owner of that newspaper?

A. Guy B. Barham.

Q. (By Mr. Compton): Mr. Harrison, do you belong to any [853] associations or organizations having to do with circulation matters?

A. Two.

Q. What are they, please?

A. The International Circulation Managers Association and the California Circulation Managers Association.

Q. How long have you been a member of the International Circulation Managers Association?

A. Well, about thirty-four years.

Q. How long have you been a member of the California Circulation Managers Association?

A. Since its inception.

Q. When was that?

A. That was in 1916, it was organized. I was its first president in 1919.

(Testimony of William J. Harrison.)

Q. Do you now hold or have you ever held office in the International Circulation Managers Association? A. I have not.

Q. Mr. Harrison, as Circulation Manager of the Los Angeles Evening Herald and Express, have you had occasion to determine the number of newsboys selling the Los Angeles Evening Herald and Express in the city of Los Angeles? A. Yes.

Q. On how many occasions have you done that?

A. Two occasions. [854]

Q. Will you please state approximately the date of the first survey? A. 1934.

Q. And will you state the occasion for such survey?

A. It was requested by the NRA, the information supplied on a blank provided for that purpose from the department under the direction of Hugh M. Johnson. I think Johnson was the name, General Johnson.

Q. Was that survey made by your department?

A. It was.

Q. Was it made under your direction?

A. Yes, sir.

Q. When was the most recent survey made by your department?

A. A survey that was completed in 1940, March, 1940.

Q. Mr. Harrison, were you in the court room during the time Mr. Patrick Comorre was on the stand testifying as to his estimate of the number

(Testimony of William J. Harrison.)

of newsboys selling the Los Angeles Evening Herald and Express in the city of Los Angeles?

A. I was.

Q. Did you hear his testimony?

A. I did.

Q. Do you recall his estimate of the number of such newsboys?

A. I think Mr. Comorre testified that there were probably some six hundred and fifty more than the number set forth in [855] his petition of approximately 230.

Q. Mr. Harrison, based on your knowledge of circulation matters generally, and on your experience in the preparation of the two surveys mentioned, will you state what is your present estimate of the average number of newsboys selling the Los Angeles Evening Herald and Express in the city of Los Angeles at this time?

A. Between 2200 and 2500.

Q. (By Mr. Compton): Mr. Harrison, do you keep and maintain, or was there kept and maintained in your department any record of the number of newsboys engaged in the selling of the Los Angeles Evening Herald and Express?

A. None at all beyond an occasional survey.

Q. And the survey that you mentioned, does that consist of numbers only?

A. Numbers only.

Q. In other words, you keep and maintain no records showing the names of these persons?

(Testimony of William J. Harrison.)

A. None at all.

Q. You do keep and maintain a payroll record of persons receiving checks from the Los Angeles Evening Herald and [856] Express, do you not?

A. We do.

Q. And it was from that payroll record that the list of names set forth in Board's Exhibit No. 3 pertaining to check men was obtained?

A. It was.

Q. And on that payroll the names of the wholesalers and the amount paid them per week appears?

A. It does.

Q. Mr. Harrison, there has been considerable testimony concerning display cards. Were you in the courtroom during this testimony?

A. I was.

Q. You are familiar generally with what the witness has testified concerning display cards?

A. I am.

Q. Will you state if you know how long the use of such display cards has been in existence in the Los Angeles Evening Herald and Express.

A. Since about 1920.

Q. What department is charged with the duty of distributing those placards?

A. The Circulation Department.

Q. That is your department?

A. My department.

Q. Can you state the purpose of said placards?

[857]

(Testimony of William J. Harrison.)

A. To advertise features and events that we expect to specialize on.

Q. What, in your opinion, is the effect of the use of such display cards?

A. I am convinced that the use of those cards has considerable to do with the increase in circulation of the holding of circulation. And the general acquaintance of our readers with new features that we are about to begin in the paper.

Q. (By Mr. Compton): Mr. Harrison, in your opinion does the use and display of these cards by corner men assist them in selling newspapers?

A. I am quite sure it does.

Q. Who bears the cost of the preparation of those cards, Mr. Harrison? [858]

A. The Evening Herald and Express.

Q. Is any charge made to any carrier or any other person for the use of those cards—pardon me, not carrier, but any newsboy or any other person, for the use of those cards?

A. None whatever.

Q. In your experience since the use of the cards started in 1920, have you ever received in your department direct or through any of your employees a complaint from any newsboy about the use of these cards? A. I have not.

Q. Will you state what instructions, if any, are given by you to the members of your department concerning the display of those cards by newsboys?

(Testimony of William J. Harrison.)

The Witness: Mr. Compton, the practice of using these cards has continued since 1920, which has become a fixed habit with the newsboys and members of the circulation department to take them out, distribute them and display them, and no instructions are necessary, or have been for [859] years.

Q. (By Mr. Compton): Mr. Harrison, recalling your attention back to the first part of your testimony concerning the number of newsboys, you testified that in your opinion the number of newsboys selling the Los Angeles Evening Herald and Express within the city limits of Los Angeles at the present time was between 2200 and 2500.

A. That is true.

Q. Does that figure include carriers?

A. It does not.

Q. Does it include news stands?

A. It does not.

Q. In other words, that estimate does include only so-called corner boys? A. That is true.

Q. Does that figure include bootjackers?

A. No, it does not. Only regularly covered by part-time or full-time newsboys.

Q. It does not include temporary or casual newsboys? A. It would not.

Q. Mr. Harrison, you were in the courtroom this morning, [860] were you not, during the time which Mr. Gordon Norton was on the stand?

A. I was.

(Testimony of William J. Harrison.)

Q. Did you hear his testimony concerning his relationship with the Los Angeles Evening Herald and Express? A. I did.

Q. Was that testimony substantially accurate, Mr. Harrison?

A. It was, I think, absolutely accurate.

Q. Mr. Harrison, do you know how long the territory now in charge of Mr. Norton has been in existence as a dealership territory?

A. Since about 1913 or 1914.

Q. And at all times since that time it has been a dealership territory? A. It has.

Q. Do you understand a dealership territory to refer to that sort of a territory described by Mr. Norton in his testimony this morning?

A. So I understand it. [861]

Q. (By Mr. Compton): Mr. Harrison, were you in the courtroom during the time when Joe Woods testified concerning his employment by the Evening Herald and Express?

A. Yes, I was here.

Q. Do you recall hearing him testify that at the time he was employed by the Los Angeles Evening Herald and Express he was then engaged in the separate independent occupation of selling magazines? A. Yes.

Q. And do you further recall that he testified that he was permitted to continue that occupation so long as it did not interfere with his duties as district man? A. I remember that.

(Testimony of William J. Harrison.)

Q. Is that testimony of Mr. Woods substantially correct? A. That is true. [870].

Q. (By Mr. Compton): Mr. Harrison, were you in the courtroom at the time that Mr. Davey Bell testified concerning the complaints received by him from the downtown business men's association concerning one Harry Relis? A. I was.

Q. Will you state, Mr. Harrison, whether or not the adjustment of such complaints is handled by your department?

A. Not directly, Mr. Compton. It would be handled by the superintendent of street sales on downtown matters.

Q. Well, as to objections from other parts of the city, where would they be handled?

A. They would be handled out of the branch office, or by the district manager in those respective territories.

Q. Mr. Harrison, I will hand you Herald's Exhibit No. 4 for identification and ask you to state if you know what that document is.

A. Yes. It is a letter from Attorney J. Allan Frankel.

Q. Did you ever see that letter before?

A. I have.

Q. How did it come to your attention?

A. This letter is addressed to the Los Angeles Evening Herald and Express, to no particular individual nor to any particular department. Mail of that sort would reach the business manager's office and be sent down to my desk if it concerned

(Testimony of William J. Harrison.)

my department, as this letter was so handled. [871]

Q. And was that so received by you?

A. Yes, sir.

Mr. Compton: At this time I offer it in evidence as Herald's Exhibit No. 4, on the letterhead of J. Allan Frankel, dated December 31, 1934.

Trial Examiner Kennedy: It may be received in evidence.

(Thereupon, the document above referred to was received in evidence and marked as Respondent's Exhibit No. 4.)

[872]

Q. Mr. Harrison, do newsboys own the corners on which they operate?

A. The newsboys believe they own certain selling privileges on these corners.

Q. Go ahead, Mr. Harrison.

A. And they sell and transfer these corners occasionally [873] from one to another.

Q. They do not in fact have any——

Q. (By Trial Examiner Kennedy): Do they own the corners?

A. Mr. Examiner, the ownership of a corner implies the ownership of a piece of property; whereas the sale of these newspapers is merely the ownership, so-called, of the privilege of selling these newspapers on these respective corners. They consider that they own the privileges; they do not own the property.

Q. What do you consider about it?

(Testimony of William J. Harrison.)

A. Well, by custom, Mr. Examiner, we recognize that they do have certain rights and we have raised no objection from time to time when they have disposed of them. Frequently a sale of that sort is made without our knowledge.

Q. (By Mr. Compton): Mr. Harrison, have you ever had at any time complaints to your department concerning the operations of newsboys from the police department or other [874] regulatory bodies of the city of Los Angeles?

A. Yes, I have had such complaints.

Q. What, if anything, do you do in respect to the matter of such complaints?

A. Through the manager, the district manager of that particular territory, the newsboy's attention is brought to the nature of the complaint, and he is advised that if such complaint exists it would be well for him to discontinue such practices.

[875]

Mr. Hamblin: May we have just a moment, Mr. Examiner? Just one further question, Mr. Harrison.

I believe when you were last on the stand you testified that the retail price of the Los Angeles Evening Herald and Express was printed on the masthead of the paper, is that correct?

The Witness: That is true.

Mr. Hamblin: Now, leaving that aside, do you exercise any other control over the retail price of the Los Angeles Evening Herald and Express?

[887]

(Testimony of William J. Harrison.)

Cross Examination

Q. (By Mr. Mouritsen): Mr. Harrison, I believe you stated that you made a survey in 1934 regarding the number of newsboys within the city of Los Angeles? A. That is true.

Q. And in what capacity did you make that survey?

A. I caused the survey to be made in the capacity of circulation manager of the Los Angeles Evening Herald and Express, on a blank provided for that purpose and headed "Confidential Government Report."

Q. As a result of that survey can you state whether or not any official findings or document was issued by the NRA covering that particular aspect of the——

A. (Interrupting): As a result of the nation-wide inquiries?

Q. No, as a result of the survey that you caused to be made? A. None whatever.

Q. Now, this later survey that you made, in what capacity did you make that?

A. Circulation manager of the Evening Herald and Express.

Q. And what was the occasion for your making such a survey?

A. Well, largely if not wholly, for my own personal information. [888]

Q. And you say it was made under your supervision? A. Under my supervision.

(Testimony of William J. Harrison.)

Q. Did you have any blanks printed containing the information that you were seeking?

A. Yes.

Q. And how was the survey made, do you know?

A. The survey was made by the district managers in their respective territories.

Q. And was this made by all eighty-odd district managers of the Evening Herald and Express?

A. Yes, all of them.

Q. Did the district managers—do all of the district managers of the Evening Herald and Express, of whom I believe you said there were some eighty-odd—eighty-six I believe—work within the city limits of Los Angeles?

A. Not all of them; a great majority of them.

Q. And did you compile the results of this survey in any manner. A. Summarize it?

Q. Summarize it. A. Yes.

Q. Do you have a copy of that summary?

A. I have.

Q. May I see it, please? A. Yes. [889]

(The document referred to was passed to counsel.)

Q. (By Mr. Mouritsen) Now, Mr. Harrison, I note that your——

A. (Interrupting) May I have that, Mr. Mouritsen?

Q. Certainly.

A. You observe, Mr. Mouritsen, that this col-

(Testimony of William J. Harrison.)

umn here has nothing at all to do with this column.

Q. Now, I note that the summary which you prepared, Mr. Harrison, contains no reference to—strike that.

I believe you stated that you had a questionnaire which you sent out to the district managers. Do you have a copy of that questionnaire available?

A. This is the summary. Whether or not I have any blanks or not at the office I am uncertain about.

Q. Let me ask you, Mr. Harrison: The summary that you prepared contained all of the information that you requested upon the questionnaires that your district men had filled out?

A. Yes. This went as far as I requested them to make information. That covered everything I wanted.

Q. Now, your summary, Mr. Harrison, however, does not contain any information regarding various classifications of newsboys, does it? A. No.

Q. It does not indicate whether the newsboys there involved are main spots, or wholesalers, or full-time or part- [890] time or temporary?

A. Not at all.

Q. Or casual?

A. This had to do with totals.

Q. And in your summary—or, you found from your most recent survey that there were approximately 214 newsboys who operated, who were over twenty-one years of age, is that correct?

A. Yes.

(Testimony of William J. Harrison.)

Q. That is, all within the city of Los Angeles?

A. No. This report does not include all-day downtown men.

Q. And a more recent survey that you made, or that you had made under your direction, indicated that there are approximately 226 full-time hustlers and wholesalers, isn't that correct? This one that was just made a little while for you by Mr. Norton?

A. That is——

Mr. Compton (Interrupting): If the Examiner please, I am going to object to calling that a survey. Mr. Mouritsen knows very well the conditions under which that was made. He asked me for it a little while before—just before the date of the trial, and we took a list of check men off our books and Mr. Norton hurriedly, on one Saturday afternoon and Monday, attempted to get the rest of the information and we put it in at its face value and under agreement with [891] Mr. Mouritsen that that *it* all it was, and I object to him now calling it a survey of anything except the check men on our books.

Mr. Mouritsen: I will withdraw the question.

Q. With reference to these various transactions regarding corners between the newsboys, you recall the testimony about the buying and selling of corners? A. Yes. [892]

Q. (By Mr. Mouritsen) Mr. Harrison, the Evening Herald and Express does not have to furnish newspapers to any newsboy who may have purchased a corner from another newsboy, does it?

(Testimony of William J. Harrison.)

A. I do not think they do.

Trial Examiner Kennedy: Anything further?

Q. (By Mr. Mouritsen) Mr. Harrison, I believe you stated on your direct examination that there is a fluctuation in your circulation from day to day.

A. Depending largely on the character of news that may break, yes, considerable fluctuation.

Q. There is considerable fluctuation on the various corners, isn't that correct? A. Yes.

Q. Of what value, then, Mr. Harrison, is a standing order by an individual? [893]

A. A standing order, Mr. Mouritsen, is a base order below which the circulation does not fall. On every one of these corners there is an established trade. The papers that we sell downtown does not indicate that we sell that number of papers every day to that number of different individuals. They are the same buyers with a considerable degree of regularity. Now, when news breaks out that is of prime interest, first importance, the sales go up over and above that base order and there is where the fluctuation occurs. It does not affect your regular buyer of the paper.

Q. Is this established order then in effect a minimum required—a minimum sale required of each newsboy on the corner?

A. No, it doesn't represent minimum requirements. The order on Saturday, for instance, is considerably less than other days in the week, but it represents a form of intelligent shipping directions.

(Testimony of William J. Harrison.)

We have to have some information as to the number of papers to be printed and distributed to these various places. That represents the base order over and above which boys can order more and get them at our best transportation convenience.

Q. Now, Mr. Harrison, the Circulation Manager is one of the first persons to know what the headline of a particular paper is going to be, is that correct?

A. The editorial department, if there is anything unusual [894] in a news outbreak, will notify the circulation manager that an extra is coming or that a certain story will be carried in the following edition.

Q. Now, in the event you have a good news story, what you consider a good headline or good news story breaking, what do you do with reference to the press run on the first edition?

A. We notify the superintendent of street sales first. Then we phone, if it is within regular working hours, — I mean by that regular publishing hours, Mr. Mouritsen — various branches that we have.

They in turn check with their district managers as to what their probable requirements will be. They then begin to phone in orders to the mail room for a lesser number of papers than they think the demand will amount to, to be followed by larger orders after the papers have been on the street, and it shall have been determined whether an active sale is coming up or not.

(Testimony of William J. Harrison.)

Q. Does that take place on your regular occasions before you start your presses?

A. By that, Mr. Mouritsen, do you mean does that take place before regular edition hours?

Q. Every day. Do you do that every day?

A. We do that every day within working or publishing hours. Now, if something extraordinary happens we may try to get a somewhat earlier start on our first edition, and we may hold [895] a press crew overtime on the last edition of the evening to see if there will be any further demand.

Q. Well, as I recall, Mr. Harrison, many of these district men, or some of the district men have testified that they—do not come to work until afternoon, and many of them, I believe, have testified they come to work and start to work around ten o'clock. Now, if I understand the testimony correctly up to this point, it is that your press run starts at nine o'clock in the morning, is that correct? A. That is true.

Q. Now, can you explain to me how you could go through that process of checking with the district managers and the branch managers with reference to the edition that you bring out at nine o'clock?

A. Very easily, Mr. Mouritsen. The district managers work on staggered hours. Some come early and quit early; some come later and work later. The branch managers have no established hours but are practically on the job from early in the morning until late in the evening.

(Testimony of William J. Harrison.)

Q. Now, Mr. Harrison, in any event, this check merely goes as far as the district managers, is that correct? A. Yes.

Q. In other words, the district managers haven't got time to go around and contact each individual newsboy and find out how many papers he may want that day? [896] A. No.

Q. Then the number of papers supplied to the district manager on any good story is determined by the district manager?

A. Is determined by the district manager.

Q. Now, referring to the regular editions during normal publishing hours, do the district managers without consulta- [897] tion with vendors of newspapers determine the number of papers that they will order?

Mr. Hamblin: Mr. Reporter, will you read the last complete question?

(The record referred to was read by the reporter, as set forth above.)

The Witness: He has his standing order from the vendor on the corner and the total of those orders from the vendors that he has established his order in toto for his requirements on any particular edition.

Q. (By Mr. Hamblin) Now, you have used the term "standing order," and "base order." Are those terms synonymous? A. The same.

Q. I understood you to state that the boys can

(Testimony of William J. Harrison.)

on any particular edition increase their order above their standing or base order?

A. That is true.

Q. May or may not the boys from day to day decrease their order below that standing or base order? [898] A. That is true.

Q. That is, they may so decrease their order?

A. Yes.

Q. May they do that from edition to edition as well as from day to day?

A. Not without some difficulty in certain sections of the city where transportation facilities are not the same as they are downtown. Downtown we have thirteen re-coveries of these streets a day, thirteen deliveries and follow-up deliveries together. We haven't any such distribution in the residential section and the boy on the corner may wish a cut in his order after the papers have been dispatched from the mail room and on the way to him. Then his cut in his base order would appear the following day.

Q. (By Mr. Hamblin) Mr. Harrison, assume that the particular newsboy makes a cut in the number of papers required for one particular edition, and that cut order is not received prior to the time the delivery of that edition is commenced, [899] may or may not the boy adjust that cut in the connection with the delivery of the next edition?

Q. (By Mr. Hamblin) That is, he may?

A. He may.

(Testimony of William J. Harrison.)

Q. Now, apart from the downtown street sales, Mr. Harrison, are there or are there not a large number of sales in other districts within the city of Los Angeles?

A. The other districts as a total exceed the total of the sales of the downtown district.

Q. Can you estimate the total number of sales by newsboys coming within the classification of full-time newsboys and check men and selling within the city of Los Angeles? Just answer that yes or no. A. Yes.

Q. Will you state the process of reasoning and the factors which you would take into consideration in giving such an estimate?

A. I base it upon the fact that an all-day or full-time [900] newsboy, as an interchangeable term used here, will not cover his corner all day or full time on a sale that represents less than approximately one hundred a day. There is insufficient profit for him.

Q. Now, what, if any, other factors or matters would you take into consideration in reaching the estimate that we are referring to?

A. I would consider that the estimate of one hundred a day as applied to this group mentioned here is entirely too small for the reason that the sales on the downtown corner are considerably larger than those in the residential sections, and considering those factors I would arrive at a larger average per selling unit than one hundred a day. [901]

(Testimony of William J. Harrison.)

Q. (By Mr. Hamblin) Mr. Harrison, directing your attention to extras, that is, newspapers over and above the base or regular order of a newsboy, as I understand it, you have already testified that the district managers place an order with respect to the various editions for a certain number of extras, is that correct?

A. They place an order, Mr. Hamblin, a standing order, for each edition. Now, extras are delivered to the newsboy over and above that standing order, and the district manager takes these extras to the newsboys and inquires of him how many he thinks that he can use.

Q. And then the district manager leaves with the newsboy the number of extras for which the newsboy asks?

A. Yes. And later on he may go to the corner, find the newsboy with too many, pick up his excess and distribute them to some other corner that needs more. [911]

Mr. Hamblin: That is all.

Recross Examination [912]

Q. (By Mr. Mouritsen) Well, Mr. Harrison, realizing the present cost of news print, let's take a situation where a [915] corner in the downtown area has normally been selling, say, one hundred copies of the newspaper a day, and there is no special news story that in your broad experience would justify an order of, say, two hundred papers on that corner. Would the newsboy in that situation be permitted to double his order?

(Testimony of William J. Harrison.)

A. Frankly, no, Mr. Mouritsen; for the very reason that you ascribe, a waste of newsprint. Within reasonable limitations, the boys can do these things. Now, when I say "within reasonable limitations," they have full return privileges in the downtown section. However, we ask them to exercise reasonable discretion in their orders to avoid this waste, despite the fact that they get full returns.

Q. And do you also ask that they exercise reasonable discretion when they lower their order?

A. To this extent, Mr. Mouritsen, that we have frequently lowered their orders for them when they didn't ask it.

Q. I mean on the basis of experience that man might have quite a number of returns over a period of time, you would then lower the order so he wouldn't be wasting that paper, isn't that correct?

A. That is true. [916]

Q. (By Mr. Mouritsen) Mr. Harrison, do you or anyone else connected with the Herald belong to the Downtown Business Men's Association, or are you or anyone else connected with the Herald a member of the Downtown Business Men's Association?

A. I am not and I do not believe that the Evening Herald and Express is.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony given by the witness Wil-

liam J. Harrison during this afternoon session is not applicable to the Los Angeles Times, with the exception of that portion of his testimony dealing with the conference late in 1939 or early in 1940 at [917] which he attended with Messrs. Marks, Black, O'Brien, Smith, Dunsmore and Nelson?

Mr. Mouritsen: That may be so stipulated.

Mr. Hall: Will you make the same stipulation reference to the Los Angeles Examiner?

Mr. Mouritsen: Yes. [918]

GUS GEORGON

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Mr. Georgon, were you present on [921] the corner of Fifth and Spring on or about January 21, 1939, when Henry Powers had a conversation with Sollie Epstein?

A. Yes, sir. [922]

Q. (By Mr. Mouritsen) Now, was anyone else present at that time, Mr. Georgon, other than Mr. Powers and Mr. Epstein?

A. Well, there were a few of the newsboys there getting their papers in the morning, early in the morning.

Q. And do you know the names of any newsboy getting his newspaper at that time?

A. Well, there is one, Harry Relis, and Mike Goldberg.

(Testimony of Gus Georgon.)

Q. And anyone else?

A. Myself and Henry Powers and Nickerson.

Q. Now, will you state what Mr. Powers said to Mr. Epstein and what Mr. Epstein said to Mr. Powers?

Q. (By Mr. Mouritsen) Will you state what Mr. Powers said to Mr. Epstein and what Mr. Epstein said to Mr. Powers?

A. Well, at the time I was selling the morning Times and Examiner, and of course Henry Powers, he come down to the stand at ten o'clock, and I wanted to help him, it was his first day there and I wanted to help him with the papers, after he bought the corner, so he went across the street—— [923]

Q. Just give us the conversation.

A. Henry asked for his papers and Mr. Epstein asked him if he had permission from the office, and Henry said, "No, I don't have permission." And he said, "I can't give you any papers until you get permission from the office." So——

Q. Well, is that about all the conversation that took place? A. That is all.

Q. Did Mr. Epstein give any papers to anyone on the corner that morning, that is, Fifth and Spring?

A. Yes; he gave the rest of the boys, and then this fellow Nickerson, after the old man passed away on the corner, he just took the corner temporarily, and he gave the papers to Nickerson and

(Testimony of Gus Georgon.)

he said, "You go ahead and sell the papers." That is all.

Q. Well, did he give the papers to Nickerson on this particular morning, when the conversation took place? A. Yes.

Q. After that conversation were you present at any other conversation that took place between Mr. Powers and a representative of the Herald and Express? A. Yes.

Q. Now, who was that?

A. That was Davey Bell, and I think it is Mr. Williams, Johnny Williams.

Q. And where did this conversation take place? [924]

A. Up to the Herald and Express office.

Q. And who else were present other than Mr. Bell and Mr. Williams, or Mr. McWilliams?

A. Nobody else, just myself and Henry Powers.

Q. Now, will you state what Mr. Powers said at that time and what Mr. Bell or Mr. McWilliams said? A. They said——

Mr. Hamblin (Interrupting): May I interrupt? I don't believe you have laid any foundation as to time. I don't wish to object unless it is necessary.

Q. (By Mr. Mouritsen) With reference to the other conversation, when did this second one take place?

A. I will say about—right after Solly Epstein told us to go up to the office and get permission from the office and then he will give us the papers.

(Testimony of Gus Georgon.)

Q. Well, the same day?

A. Yes, the same day.

Q. About how long afterwards?

A. Oh, I will say about an hour afterwards.

Q. Now, will you state what was said by these various individuals at this second conversation?

A. Well, we went over there and talked to Davey Bell and Charley McWilliams, and he said, "Well, you should have come here to the office first and got permission before you bought the corner." [925]

Q. Which one said that, Mr. McWilliams or Mr. Bell?

A. I am not sure which one of them, but I know one of those two said, "You should have come here to the office and got a permission before you bought the corner," and then he said, "The only thing you can do now is get your money back from the woman and let the corner go." And I said, "Why, if the boy paid for the corner, if the boy bought this corner," and I even showed him the bill of sale, and I said, "Why isn't he entitled to sell papers on that corner?" And he said, "Well, that is all we can do," so we just walked out.

Q. And after you left Mr. Bell and Mr. Harrison what did you do, if anything?

A. Then we went up to the Newsboys Union office and told the case to the officer there in charge.

Q. Who was that?

(Testimony of Gus Georgon.)

A. Mr. Comorre, there.

Q. Then what occurred after that time?

A. Well, after that time I think—I don't know, but Henry Powers got some papers somewhere and he was selling papers on the corner at the time with Mr. Nickerson. They both were selling the Herald and Express at the time.

Mr. Compton: Were you there? Did you see all this?

The Witness: Yes. So, a little later, I think Mr. Norton came up there and called Mr. Comorre to one side, and I don't know what their conversation was but I know that they took [926] Nickerson off the corner and let Henry Powers on the corner to sell papers regularly.

Cross Examination

Q. (By Mr. Compton) You state that Mr. Nickerson took the corner after the blind man died? A. Temporarily.

Q. Wasn't it a fact that he had been selling for the blind man for almost a year before he died?

A. I don't think he was selling—the only time he was selling the papers was in the morning, the Times and Examiner.

Q. Don't you know the blind man was ill for six or eight months before he died and that Nickerson worked for him and sold papers for him on that corner?

A. I don't know about that.

(Testimony of Gus Georgon.)

Q. How long were you on the corner?

A. I was on the corner, oh, about two or three weeks.

Q. And you don't know whether Nickerson was at the corner before two or three weeks or not, do you?

A. No, he didn't have the corner. He wasn't selling the Herald and Express. He was selling the Times and Examiner.

Q. Who was selling it?

A. The blind man was selling it.

Q. Don't you know that the blind man was sick and not able to work for more than six months before he died? [927]

The Witness: No, I don't know that.

Q. (By Mr. Compton) Do you know whether the blind man was selling papers there three weeks before the day on which you state that Mr. Powers bought the corner? A. No, I don't.

Q. Well, were you there?

A. I was selling papers in the morning, yes.

Q. Well, who was selling the Herald then?

A. Nickerson.

Q. Well, that is what I said. And he was selling before you ever came on the corner, wasn't he?

A. Yes. He was selling there—the Herald and Express.

Q. You haven't any idea how much longer before that that he was selling those papers, have you?

(Testimony of Gus Georgon.)

The Witness: No. Nickerson was selling papers. I was [928] selling the Times and Examiner in the morning and Nickerson was selling the Herald and Express in the day-time. That is, after the old man died. Then Nickerson took the corner temporarily.

Q. (By Mr. Compton) Now, how long were you on the corner before Harry Powers bought it?

A. Was there about—oh, I think about two weeks——

Q. About two weeks?

A. Or three weeks. Yes.

Q. Now, who sold the Evening Herald and Express during the day-time during the two weeks in which you were on the corner selling the morning papers? A. Nickerson.

Q. And as far as you know—beyond that two weeks you do not know who sold the paper on the corner, do you? A. No, I don't.

Q. Then, when I say that Mr. Nickerson may have been selling papers there for six months, or more, you do not know anything to the contrary, do you? A. No, I do not. I do not. [929]

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Gus Georgon has no application to the Times case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: May it be stipulated that the testi-

mony of the witness who just left the stand shall not apply to the Los Angeles Examiner case?

Mr. Mouritsen: It may be so stipulated. That is, it is not the intention of the Board's attorney that it should apply. The board itself will determine whether it shall apply.

Mr. Hall: Just a minute. Pardon me, now. There have been various stipulations made, Mr. Mouritsen, as to the applicability of the testimony, and I think—at least where I have joined in these stipulations, and I think it is probably Mr. Cosgrove's assumption, too, that these stipulations have made such testimony inapplicable to the Examiner and to the Times, respectively. Is that your understanding?

Mr. Mouritsen: That, Mr. Hall, is my understanding—it is my understanding that I am not presenting that information to apply. It was my intention to apply it to the Evening Herald and Express case. Now—and I may state that that has been, as far as I know how far I can bind the Board, that that is my understanding, that it does not apply.

Mr. Cosgrove: Well, you answered a question asked by the Examiner on that matter, and you do not now wish to be [930] understood as in any manner varying the answer that you gave to the Examiner as to what your contention was with reference to the application of the testimony?

Mr. Mouritsen: Well, now, what, Mr. Cosgrove, was my answer to the Examiner to which you re-

fer? You understand, Mr. Cosgrove and Mr. Hall, the hearing has been consolidated. Now, I have not—I am applying this action to the particular phases of the case, and—that is, of the various petitions filed, and I do not have the intention that the witnesses called by the Herald and Express shall apply their testimony to the various other papers, the Times and the Examiner. Now, how I can—what my authority is with reference to the consolidation of the cases I do not know, but I can state fully that it has not been my intention to present any of this matter except that with reference to the organization, with reference to any of the—to either the Examiner or the Times.

Mr. Hall: Then, in other words, Mr. Mouritsen, your statement goes about as far as this: That the stipulations that you have made from time to time over the last week had reference solely to your intention, or your own belief? Do they go any further than that?

Mr. Mouritsen: Well, I think—I think, Mr. Hall, that is about as far as they can go in my capacity with the Board. In other words, the Board has consolidated the hearing for [931] all purposes, and——

Mr. Hall (Interrupting): Well, of course you will pardon me. I am of course not as familiar with the Board's procedure as you are, Mr. Mouritsen. Stipulations have been offered from time to time in these consolidated cases which you have signed as an attorney for the Board, and I had

assumed that in those stipulations you spoke for the Board and that the stipulation was binding upon the Board, and if it were not I can see very little use in entering into those stipulations and I would be inclined to withdraw some that I have made under that assumption. If, on the other hand, you did bind the Board in those stipulations then do I understand that these verbal stipulations which have been made from time to time during the last week are in a different category? I am just asking. I would like to know. I am not suggesting any criticism of your conduct, Mr. Mouritsen.

Mr. Mouritsen: No. I think——

Mr. Hall (Interrupting): But I would like to be advised.

Mr. Mouritsen (Continuing) ——that they would be in the same category and——

Mr. Hall (Interrupting): Binding upon the Board?

Mr. Mouritsen: I imagine they would be.

Trial Examiner Kennedy: Mr. Mouritsen, let us determine what your instructions are in this regard. As attorney for the Board, are you advised that you operate in any different [932] capacity than an attorney-at-law in ordinary court proceedings? That is, that your authority is not as broad as an attorney's would be in court? Do you have any regulation on that, or any instruction?

Mr. Mouritsen: No. I think there is not, Mr. Examiner. But——

Trial Examiner Kennedy (Interrupting): I do

not know of the situation at all. I have nothing to do with that side of the Board's personnel and I do not know how far the authority goes. I have seen the point raised in other agencies where they operate on somewhat similar procedure to that we follow, where the authority—I have in mind the Federal Trade Commission—where they take the position that they merely cannot bind the commission on these things, and I do not think we have ever had the point raised in a Labor Board proceeding. So, if there is any question about it I think you had better ascertain what that situation is so all parties may be advised.

Mr. Hall: It leaves us in a quandary, if the Examiner please, because many of these stipulations are in essence stipulations as to facts. Now, where I say, "Will you stipulate to such and such a fact, Mr. Mouritsen?" and he says, "Yes," that leaves the ordinary attorney like myself, unfamiliar with these Board proceedings, under the impression that that fact has been stipulated to as a fact in the case, [933] and that it is a fact in the case for all purposes. Hence, the point of my inquiry at this time, when counsel indicates that because of some possible limitation upon his authority the conclusion that I have assumed to be the case all along is not the fact.

Trial Examiner Kennedy: Well, we certainly cannot assume that the attorney for the Board does not speak for the Board, and does not have the authority to limit the Board. That is certainly the

construction I would put on it, unless there is some other rule of the Board shown. It is certainly not in any published rule of the Board, and if there is any private rule, I think we ought to find out what that is.

Mr. Mouritsen: Now, I do not thing there is, Mr. Examiner, and perhaps I spoke out of an excess of caution. However, I would, in answer to Mr. Hall's offer of a stipulation, merely say yes. [934]

Mr. Hall: To clarify the last point, Mr. Examiner—pardon the interruption—I want to state for the purposes of the record that I am assuming henceforth, as I have in the past, that where you make a stipulation with me upon a question of fact you bind the Board by such statement or by such stipulation.

Trial Examiner Kennedy: That is my understanding.

Mr. Mouritsen: Yes, I think that is proper.

GORDON NORTON

recalled as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, resumed the stand and testified further as follows:

Direct Examination

Q. (By Mr. Mouritsen) And that is, if Jimmy Blake, the predecessor to Tony, was paid in the same manner as Tony now is?

A. Well, if he was?

Q. Yes. A. Yes, he was. [935]

Tuesday, June 18, 1940.

Met, pursuant to adjournment, at 9:30 o'clock a. m. [939]

ROBERT L. SMITH

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you reside, Mr. Smith?

A. 5354 Linda Vista Drive, Alta Canada.

Q. That is in the city of Los Angeles?

A. No.

Q. What is your business or profession?

A. Newspaper business.

Q. What official position do you hold with the Stockholders Publishing Company, Inc.?

A. Executive Vice President and General Manager.

Q. How long have you held that position?

A. Approximately seven years.

Q. Will you describe briefly what business the Stockholders Publishing Company, Inc. engages in?

A. Their exclusive business is the publication of the News, formerly the Daily News, a morning publication, and Evening News, an afternoon publication; both now known as the News, operating on an all-day basis. [942]

Q. That's all right. Approximately when did this change occur? A. April 1st, 1940.

Q. Prior to that time the earlier editions of the

(Testimony of Robert L. Smith.)

paper had been called the Morning News, or the Daily News? A. Daily News.

Q. And the subsequent publications had been called the Evening News? A. That is right.

Q. Now they are all called the News?

A. That is right.

Q. Is it correct to say that the Stockholders Publishing Company, Inc., is engaged in the business of circulating news? A. Yes.

Q. And is one of the methods of that circulation through street sales? [943] A. Yes.

Q. And the street sales are made, in the main, through newsboys, is that correct? A. Yes.

Q. Now, could you enumerate the various editions issued by the Stockholders Publishing Company, Inc., giving the approximate time of each issue?

A. We have ten editions a day, beginning with the 1 Star and running through, consecutively, 1, 2, 3,—up to the 10 Star edition, and the 1 Star is published at approximately 10:50 p. m. [944]

Q. Now, Mr. Smith, I believe that the editions of the News, beginning with the Five Star edition, are handled in the main by newsboys who also handle the Evening Herald and Express, is that correct? A. Yes.

Q. Now, I believe the testimony to date in the hearing indicates that the handling of these two papers by one set of newsboys commenced approximately August 25, 1937? A. That is right.

Q. Now, prior to that time, did you attend any

(Testimony of Robert L. Smith.)

ers Publishing Company and representatives of the Evening Herald and Express whereby that arrangement was made? A. Yes.

Q. And when did the first of such conferences occur?

A. Shortly before the change was made.

Q. Were there a number of such conferences?

A. No.

Q. And approximately how many

A. As I recall it, D. G. Keller, business manager of the Herald and Express, and myself first discussed the matter informally with no one else present. [945]

Q. Could you tell us what was said by you and what was said by Mr. Keeler at this first conference?

A. I can give you the essence of our discussion, which was brief and on the subject of the proposed consolidation, yes. [946]

Q. Will you please do so?

A. Over a period of years the Record, then the Evening News, and the publication of our two, which was the only one being discussed in regard to consolidation, had been jointly distributed with the Herald and Express from time to time.

That joint distribution had been discontinued from time to time, based upon the policies of various managements, presumably, which had been in charge of the distribution of both papers, particularly, I believe, the Record, because it had

(Testimony of Robert L. Smith.)

changed hands and managements a number of times over a period of years.

In recent years particularly, people engaged in newspaper business have recognized the necessity for increased efficiency, increased economy, and increased cooperation between publishers in connection with the operation of their business. Within the past two-year period we have nearly a hundred newspapers that have gone out of business or merged with other publications, and that more or less justifies conferences such as the one we held.

At the time Stockholders Publishing Company, Inc. purchased the Record, I discontinued the joint distribution that existed at that time, or that had existed prior to that time. I am not definite as to whether or not the joint distribution had been discontinued somewhat before we took over or not. I am under the impression that it had, but it was proposed at that time that—— [947]

Q. (Interrupting) Well, that was joint distribution with——

A. (Interrupting) That joint distribution with the Herald be undertaken again. We felt then it would be to our benefit to have our own distribution, and although it was our first operation in the afternoon field we wanted to be directly responsible for our own distribution arrangements.

However, developments in business change rapidly over a period of time, and by the time we had the meeting with Mr. Keeler and myself, it seemed mutually desirable to go to a joint operation with

(Testimony of Robert L. Smith.)

respect to the distribution and sale of our papers. Two points were involved, so far as we were concerned; one, it would save us some money; two, it would increase the number of outlets that we would have for the sale and distribution of our paper, thus possibly increasing our total sale, and it is always desirable to increase your total circulation, of course; and it was along those lines that we discussed the matter of a consolidated operation.

Q. Now, after that time were other conferences held at which the same subject matter was discussed, that is, consolidation of the handling of the papers, so far as street sales were concerned? [948]

A. As I previously indicated, I believe one subsequent meeting is what I recall.

Q. And where was that held?

A. In Don Keeler's office.

Q. And who were the people present?

A. As I recall it, Mr. Harrison was present, and our circulation manager at that time was Mr. W. A. Robare. He was on his vacation, and his assistant, Mr. Van Dyke, was present, I believe. As I recall it, no one else was present.

Q. And Mr. Harrison was the circulation manager of the Evening Herald and Express?

A. Yes.

Q. And how long before the actual consolidation took place did this conference occur?

Mr. L. B. Binford: It will be stipulated, Mr. Mouritsen, that when you refer to consolidation

(Testimony of Robert L. Smith.)

without further amplifying it, that it is intended to mean the arrangement by which there was a joint sale by newsboys on street sales covering the Herald and Express and the News?

Mr. Mouritsen: Yes, I think so. That is so stipulated.

The Witness: A matter of a few days. [949]

Q. (By Mr. Mouritsen) Will you please state what was said at that conference, naming, so far as you can, the parties who made any statements?

A. The conference did not register very strongly with me, other than that it was for the purpose of working out the modus operandi of the move, and that was delegated by Mr. Keeler to Mr. Harrison and his assistants, and by me to Mr. Van Dyke, Mr. Robare's assistant, and the other circulation executives; and for that reason the minutia of the meeting was something I don't recall. It was a brief meeting.

I believe I left before the meeting was over for the reason that I had delegated to these others the things that were to be worked out.

Q. Was Mr. Robare the only other representative of the News who was present?

A. Mr. Robare was not present, as I recall it. As I stated, Mr. Van Dyke, his assistant, was representing him. Mr. Robare was on vacation at that time.

Q. And is Mr. Van Dyke connected with the circulation department of the News at the present time? A. No, he is not. [950]

(Testimony of Robert L. Smith.)

Q. Now, by this consolidation, Mr. Smith, a large number of newsboys were eliminated, is that correct? A. Yes, some were eliminated.

Q. And did Mr. Van Dyke present for your approval details regarding the elimination of some of these newsboys? A. No. [953]

Q. Well, did you leave it to Mr. Van Dyke to decide whether the boys who had formerly handled the News were to be eliminated or whether the boys who had formerly handled the Evening Herald and Express were to be eliminated?

A. That, of course, was not entirely up to Mr. Van Dyke, or to anyone identified with the News.

Q. Well, an agreement of some kind had to be made in that regard, did it not, Mr. Smith?

A. You mean an agreement between whom?

Q. As to which newsboys were to be eliminated, and as to which were to handle both papers after the consolidation.

A. Well, of course, we do not deal directly with the newsboys, either the Herald or ourselves. All arrangements made by us were made with the circulation managers and on down the line to the district managers.

Q. Well, wasn't that subject ever discussed or brought to your attention, that that is one of the details of this consolidation?

A. As I indicated, the details were worked out by Mr. Harrison and Mr. Van Dyke.

Q. And any such arrangement worked out by

(Testimony of Robert L. Smith.)

Mr. Van Dyke had your tacit approval with respect to that detail, is that correct?

A. Yes. I was interested in how much it was going to cost and how much more representation it would give us. [954]

Q. Now, did Mr. Van Dyke ever present for your approval the detail as to the manner in which the respective newspapers were to be displayed after the consolidation?

A. Not at that time.

Q. When did he do that?

A. Mr. Van Dyke did not do that. Upon returning from his vacation that matter came up through Mr. Robare.

Q. Will you explain how that matter—that is, the display—came up through Mr. Robare?

A. All circulation managers are zealous with respect to the sale, display and calling of the newspaper they represent, and a part of their duties are to get reports as to what extent that sales effort is being put forward for their product.

Also, if they are sufficiently energetic they cruise around the city rather than rely exclusively on second-hand information.

Mr. Robare, following general observation and reports concerning the operation of the consolidated deal—I am saying that now—reported back that we were not getting a proper break, as he termed it, and asked me to use my influence with Mr. Keeler to see that a fair break was given to the News as

(Testimony of Robert L. Smith.)

well as the Herald in the sale and distribution under the joint setup.

You understand that it was the Herald organization that [955] took over the joint distribution and sale. And, for that reason, the control that Mr. Van Dyke or Mr. Robare or myself or anyone connected with the News could exert in connection with it was limited to some degree.

Q. I suppose you received a report from Mr. Robare regarding the outcome of his efforts along that line, to see that the News received a break, as you say? A. Yes.

Q. Now, what did the—what did he present for your approval or for your information regarding that?

A. He made the general statement that the News was being buried and that the News was not being displayed to the same degree that the Herald was, and asked that I take the matter to the Herald management, meaning Mr. Keeler.

I told him that I would do so only if he would give me specific cases and he obtained such specific cases and I arranged with Mr. Keeler to have Mr. Robare and Mr. Harrison discuss the matter with a view to working it out on a fair and equitable basis, and I believe that from time to time meetings were held between Mr. Robare and Mr. Harrison for that purpose.

Q. Did you attend any of those conferences at which the subject matter of the manner of display was discussed?

(Testimony of Robert L. Smith.)

A. Yes, I believe I did once or twice. [956]

Q. Will you please state what was said at that meeting, naming the individuals who made such statements?

A. The meeting was called at our request and we laid upon the table, as it were, our complaints with respect to the specific instances which Mr. Robare was prepared to present to Mr. Harrison, and a joint discussion was had, in which I believe we both assured the other that it was not our desire to steal a march on the other, and the usual niceties were exchanged, following which Mr. Keeler suggested that Mr. Harrison and Mr. Robare meet in Mr. Harrison's office following adjournment of the meeting in Mr. Keeler's office, for the purpose of working out the details.

Q. And what was the final outcome of the conference? Did the News receive an even break on the display after that time?

A. There are differences of opinion on that subject. [957]

Q. And what specific complaints—were the specific complaints that were discussed at that meeting remedied?

Mr. L. B. Binford: If you know.

The Witness: Not satisfactorily.

Q. (By Mr. Mouritsen) Well, now, let's—in general what were those complaints, what was the nature of them?

(Testimony of Robert L. Smith.)

I believe you have already stated that in some cases the News was buried. Now, was there any different complaint covering the manner of display?

A. Yes. It was pointed out by the Herald management, probably by Mr. Harrison, that the Herald sales on the streets were at that time approximately two and a half times the street sales of the Evening News, and that it would hardly be considered equitable to have the same number of News as there were Heralds, or to have the same identical display when the public demand based on previous sale indicated a ratio of approximately 2½ to 1 in favor of the Herald.

We acceded to that as being logical, but suggested that because of the difference in format of the two papers, the News be held on the outside so that it would not be buried, as they referred to it, and that the district men be advised with respect to that method and that where possible both the papers would be named in the call. That is, the boys would cry "Herald News" or "News Herald" or something to that effect. [958]

Mr. Harrison did, I recall, at either that or a subsequent meeting, point out that his ability to get the newsboys to display and call the papers as we desired them to be displayed and called and as we jointly agreed would be mutually satisfactory, was a task that he had by no means control over. He could pass the word along to his district man

(Testimony of Robert L. Smith.)

but that was as far as he could go. He made that point very clear, and he made it more emphatically as complaints continued to go on over a period of months.

Q. And the information that you received at that time regarding these complaints about the manner of display indicated that these differences had not entirely been eliminated is that correct?

A. I, of course, can't speak for the Herald, but speaking for the News I would say that they are not satisfactory at the present time.

Q. Now, were there other conferences after this first one regarding the manner of display of the two respective newspapers?

A. I believe Mr. Harrison and Mr. Robare and subsequently our present circulation manager, Mr. O'Brien, have held a number of meetings and have discussed, among other things, that particular point. I recall attending one particular meeting devoted to that purpose. [959]

Q. And approximately when was that meeting held?

A. My best recollection is that it was a number of months after the joint distribution went into effect.

Q. And where was it held?

A. It was also held in Mr. Keeler's office.

Q. Who were the people present?

A. As I recall it, the same people were present as at the previous meeting—no, that is not correct. By

(Testimony of Robert L. Smith.)

that time Mr. O'Brien became circulation manager and he was present rather than Mr. Rebare or Mr. Van Dyke.

Q. Now, were a number of complaints regarding the manner of display discussed at this second meeting?

A. It was approximately the same type of meeting with respect to discussion and results as the previous one.

Q. You presented at that time, however, different specific complaints regarding the manner of handling the News with relation to the Herald and Express by newsboys?

A. Yes. I think Mr. O'Brien had cases where our representatives in the circulation department had endeavored to make suggestions concerning the display, and they were politely told to go to hell.

Q. Now, do you know how Mr. O'Brien obtained his information regarding these specific complaints?

A. He obtained them from——

Mr. L. B. Binford (Interrupting): Do you know? [960]

The Witness: Yes, I do know. He obtained them from his circulation supervisor, whose duty it was to see to such matters.

Q. (By Mr. Mouritsen) Now, with reference to this use of the expression "buried," the News is a smaller paper in size than the Herald and Express, is that correct? A. Yes.

Q. It is just—when it is not folded at all, it is

(Testimony of Robert L. Smith.)

just a little larger than the Herald is when it is folded double, is that correct? A. Yes.

Q. And by "buried," do you mean that it was held by the newsboy back of the copies of the Evening Herald and Express so that only a small portion of it appeared?

A. Well, there are a number of techniques that apparently are used to bury a competing paper by some one desiring not to sell it, and I mean to make no disparaging reference to the Herald management when I say that.

Not having any at all in one's hand is a very effective way of burying a particular publication. Having only one as compared to eight or ten or even twenty of another publication is another way, and then holding them as you suggest inside rather than outside, of course, is another.

Failure to call the paper, of course, would constitute another. [961]

Q. Now, do you recall any further conferences at which the manner of display of the newsboys, or by the newsboys of the respective papers was discussed?

A. No.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony given this morning by Robert L. Smith has no application to the Los Angeles Times case? [962]

Mr. Mouritsen: It may be so stipulated.

(Testimony of Robert L. Smith.)

Mr. Hall: May the same thing be stipulated with reference to the Los Angeles Examiner?

Mr. Mouritsen: That may be so stipulated.

DUTTON F. O'BRIEN

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [963]

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. O'Brien?

A. 215 Doheny Drive, Beverly Hills.

Q. What is your business or occupation?

A. I am circulation manager of the News.

Q. How long have you held that position?

A. Since September 5, 1938. [963]

Q. Mr. O'Brien, will you please enumerate the editions of the News that are issued and state the approximate hour of issuance of the editions?

A. We print ten editions, which are designated by stars, in sequence from one to ten stars. The first edition is printed at 10:50 p.m. on the date preceding the date of publication;

The second edition is 11:15 p.m.;

The third edition is 12:15 a.m.;

The fourth edition at 2:45 a.m.;

The fifth edition at 9:50 a.m.;

The sixth edition at 12:10 p.m.;

(Testimony of Dutton F. O'Brien.)

The seventh at 1:10 p.m.;

The eighth at 2:30 p.m.;

The ninth at 4:00 o'clock;

And the tenth at 5:00 o'clock. [964]

Q. (By Mr. Mouritsen) Now, Mr. O'Brien, will you explain how the first four editions of the News are circulated so far as street sales are concerned, and also confine that, please, to circulation within the city of Los Angeles?

A. The only edition of the first four which reaches the city streets is the fourth edition, the four star.

Q. The first three are not sold on the streets?

A. They are used for suburban dealers and routes and so forth.

Q. Will you explain, please, how, then, the fourth edition is handled by the circulation department so far as street sales within the city of Los Angeles is concerned?

A. I don't believe I understand your use of the word "handled." What do you mean by that?

Q. Now, how does the paper put it out? How do you circulate the fourth edition?

A. The district managers call at the newspaper, at the plant, for the newspapers.

The Witness: The district managers call at the newspaper office for their copies of the fourth edition, which they in turn distribute to the news dealers, the newsboys and the racks. [965]

Q. (By Mr. Mouritsen): Do you have a set of district managers who handle only that fourth edition?

(Testimony of Dutton F. O'Brien.)

A. Yes.

Q. And approximately how many such district managers are there?

A. For the city edition, in the fourth edition, there are fourteen.

Q. You understand, I am restricting this merely to circulation within the city limits of Los Angeles?

A. Yes.

Q. Do you have also another set of district managers who handle all editions of the paper from the fifth edition on?

A. With the exception of the Seven Star edition, which is used only for route delivery.

Q. Now, will you explain, please, what work these other district managers do so far as the circulation of the other editions, other than the Seven Star, are concerned and that is within the city limits of Los Angeles?

A. All the district managers call at the office for their Five Star edition, which is the first they take out. Succeeding editions are either sent to them on their territories or they come into the office for them. They make the distribution, also, to the news-dealers, the corner boys, the newsboys, and the racks. [966]

Q. Do those district managers return their unsold copies of the paper each evening?

A. Not each evening, no.

Q. When do they do that?

A. The next day and the second day afterwards.

Q. Do they all report back to the News after the completion of their day's duties? A. No.

(Testimony of Dutton F. O'Brien.)

Q. When do they make their return of collections from street sales?

A. Our men work on a wholesale basis; they pay their bills the next morning for the preceding day's papers which are [968] furnished to them.

Q. Now, returning to the morning district men, in general when do they report, or when do they commence their duties?

A. At about 2:45 to 3:15 a.m.

Q. And they also report to the plant and receive their papers at that time? A. That is right.

Q. And then they make their distribution and do they return to their plant at the conclusion of their day's duties?

A. Not necessarily. Some do.

Q. Some do and some do not?

A. But they are not required to.

Q. Do they return the unsold copies of the paper at the completion of their day's duties?

A. In some cases. But more of them bring them in the next day, the day following.

Q. Mr. O'Brien, certain of the newsboys have testified regarding certain racks in which are placed the copies of the News. Those racks are furnished by the News, are they not?

A. Yes. To the district managers.

Q. And they remain the property, however, of the News, or the Stockholders Publishing Company?

A. That is true. They are provided for the convenience of the district manager.

(Testimony of Dutton F. O'Brien.)

Q. Do you from time to time bring in and repair those [969] racks if damaged?

A. We ask the district managers to keep them in as good condition as possible, bringing in those which are damaged for repair.

Q. And that repair work is done by the Stock holders Publishing Company?

A. That is. It is paid for by the Stockholders Publishing Company.

Q. And from time to time does the News furnish various change aprons to be used by the newsboys in their operations?

A. Occasionally, I believe, yes.

Q. And such change aprons bear the name of the News, do they not? A. They do, yes. [970]

Q. With the understanding of the expression "giving the News a break"—strike that.

Have you from time to time presented to Mr. Smith, complaints that the newsboys were not giving the News a break in the display?

Mr. L. B. Binford: Might I suggest that, in view of the witness' definition of the word "break" given to the Examiner, that question should be "an even break."

Mr. Mouritsen: I accept the amendment, Mr. Examiner. I think it is a very sensible solution or suggestion.

The Witness: From time to time I have discussed with Mr. Smith the inferiority of representation we have had throughout the city through the newsboys.

(Testimony of Dutton F. O'Brien.)

Q. (By Mr. Mouritsen) And how did you—what was the basis for these—what was your source of information regarding these various matters regarding inferior representation?

A. Personal observation to a general extent, reports of other members of the department to a larger extent.

Q. These other members of the department who were furnished that information, who are they?

A. Principally Mr. Reichert, who was then in charge of street sales. [972]

Q. (By Trial Examiner Kennedy) Do you in your operations attempt to maintain a retail price for the paper?

A. The retail price of the paper is printed each day on [973] the paper.

Q. Do you know of any instances where that is varied from in the retail price? A. I do not.

Q. Mr. O'Brien, have you during the period while you have been circulation manager met with representatives of the Newsboys Union?

A. Members of the Newsboys Union have called on me on two or three occasions.

Q. And what in general have they taken up with you?

A. The matters were so minor I don't recall them at the time.

Q. Did they take up with you any grievance regarding the newsboys?

A. I don't recall, Mr. Mouritsen.

(Testimony of Dutton F. O'Brien.)

Q. For the purpose of refreshing your recollection, Mr. O'Brien, I will ask you if you did not take up with representatives of the newsboys on one occasion the price at which the newsboys received the copies of the News that they sell? [974]

The Witness: I did not take up with the newsboys any such question.

Q. (By Mr. Mouritsen) Did they take it up with you? A. They did.

Q. And was that approximately a year ago?

A. I believe it was at least that long ago; possibly longer.

Q. And where did they take the matter up with you? A. At my office.

Q. And who were present?

A. The only one I can remember and identify was Pat Comorre. There were others there but I don't know who they were.

Q. Now, could you state what you said on that occasion and what the newsboys' representative said on that occasion?

A. I believe that Mr. Comorre, as representative or as spokesman, I should say, for the committee which called upon me said that the men who handled the—the newsboys, rather, [975] who handled the morning paper were paying a quarter of a cent more per copy than the newsboys who sold the afternoon papers, there being two newspapers at that time.

I don't remember what specific questions he may have asked, nor what my answers might have been,

(Testimony of Dutton F. O'Brien.)

but I do remember in substance that I referred the committee and its members to the district managers who have full control over the prices at which they sell to the newsboys.

Q. Do you recall any other occasion on which representatives of the newsboys took up any matters with you?

A. I am sorry to say that I don't remember what the questions were that they asked when they came in, although I do recall they were there two or three times.

Q. I will ask you if within the last couple of months representatives of the newsboys have not taken up with you the question of whether or not the News was to be handled by a separate set of newsboys?

A. That question was taken up with Mr. Smith, not with me.

Q. Were you present at a——

A. (Interrupting) I was, yes.

Q. Where did that occur?

A. In Mr. Smith's office.

Q. Other than yourself and Mr. Smith, who else were present?

A. I believe that P. M. Connelly was there and five or six other men. I do not recall who they were. [976]

Q. Will you state what was said on that occasion by representatives of the union and what was said either by yourself or Mr. Smith?

(Testimony of Dutton F. O'Brien.)

A. In substance, Mr. Connelly asked Mr. Smith if we proposed separating the sale of newspapers after the change to the all-day publication, which was dated for April 1st, 1940, and Mr. Smith assured Mr. Connelly and the committee which called upon him that that was not our intention. May I amend that?

Q. Surely.

A. When I say "separate the newspapers," I mean separate the retail sale of the newspapers on the streets.

Q. In other words, what papers were to be separated?

A. I believe the intention of the committee was to inquire about the Herald and Express and the News sales on the downtown corners.

Q. Now, Mr. O'Brien, how do the amount of street sales of the publication, compare with the street sales of all editions from the fifth on excluding the seventh?

A. You mean the total number of copies sold?

Q. With reference to the number of copies sold. Now, how [977] do they compare?

A. Well, that fluctuates, of course, almost daily. In fact, it does fluctuate daily.

Q. Yes. But is it not true that the street sales of the paper from the fifth edition on are much larger than the street sales of the fourth edition?

A. Naturally. There are five editions.

Q. Now, approximately what is the difference between the street sales of the fourth edition and those of all editions from the fifth on excluding the seventh?

(Testimony of Dutton F. O'Brien.)

Mr. L. B. Binford: You mean in number of papers?

Q. (By Mr. Mouritsen) Approximately, or percentages, whichever way he can best give it.

A. Of the total number of copies sold on the city streets the Four Star sale represents approximately thirty to thirty-five per cent of the total.

Q. And with reference to the number of newsboys, how does the percentage compare?

A. That I don't know. There are more newsboys in the afternoon than there are in the morning.

Q. Is it a fact that the fourth edition is in some instances handled by newsboys who handle also the Examiner and the Times?

A. That is true in some cases, yes.

Q. How was that arrangement made, if it was made, to your [978] knowledge; that is, whereby the same newsboy handles the News, Examiner and the Times?

Mr. L. B. Binford: If you know.

The Witness: I don't know. That antedated my association with the News.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Mr. Dutton O'Brien has no application to the Times case?

Mr. Mouritsen: That may be so stipulated.

Mr. Cosgrove: He made some sort of a reference about newsboys calling on him and taking up the matter of the price of papers or something.

Mr. Mouritsen? Well, that I would desire to exclude from the stipulation.

Mr. Cosgrove: All right.

Mr. Hall: Will you make the same stipulation as to the Los Angeles Examiner?

Mr. Mouritsen: Yes, with the same exclusion.

Mr. Hall: Yes. [979]

Mr. L. B. Binford: Might I suggest, Mr. Mouritsen, that you mentioned to me during the recess the fact that you would like us to furnish you with a list of the so-called check men? [980]

Let the record show that I am handing to Mr. Mouritsen a list prepared by our accounting department consisting of two pages, giving the names and addresses and the amount paid to each of the group of wholesalers as they have been termed in this record, or sometimes termed as check men. The addresses referred to in the list are the addresses at which the newsboys or wholesalers operate, not the residence address.

Mr. Mouritsen: Thank you. Could this be marked as Board's Exhibit next in order?

Trial Examiner Kennedy: What will the number be, Mr. Reporter?

The Reporter: Board's Exhibit No. 9. [981]

Mr. Mouritsen: Mr. Binford, will it be stipulated that the list you have furnished, Board's Exhibit 9 for identification, is a complete list of all so-called check men or wholesalers of the News?

Mr. L. B. Binford: Yes, so stipulated.

There is a possibility, of course, of an omission or

addition that should not have been there, but that is intended to be just in accordance with your statement.

Mr. Mouritsen: And that it indicates the amount of the check that they receive from the News?

Mr. L. B. Binford: So stipulated.

Mr. Mouritsen: And could I inquire whether the figures on the right-hand side indicate the amount they receive before or after deductions for Social Security and Unemployment Insurance?

Mr. O'Brien: Yes, sir. Those figures are the amounts before the deduction of Social Security. [982]

Mr. Mouritsen: Yes, that is what Mr. O'Brien stated, and that can be so stipulated.

It will be stipulated that deductions are made from these figures for Social Security and Unemployment Insurance.

Mr. L. B. Binford: Yes.

Mr. Mouritsen: And that for these men the Stockholders Publishing Company, Inc. is registered as the employer for the duties the men perform for which they receive these checks?

Mr. L. B. Binford: I presume that is true, that they are so registered, but in all events they are carried on our books as employees for that restricted purpose.

Mr. Mouritsen: At this time I will offer as Board's Exhibit 9 the document marked Board's 9 for identification.

Trial Examiner Kennedy: Is there any objection?

Received in evidence.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit No. 9.) [983]

BOARD EXHIBIT No. 9

A. Gordon	5th & Main	4.50
A. Marcus	6th & Main	5.00
S. Segal	5th & Broadway	5.40
M. Goldberg	5th & Spring	2.10
W. Axelrod	5th & Hill	5.40
G. Brennan	6th & Grand	2.10
L. Sherman	Hill Street Depot	5.00
G. Aronson	4th & Hill	2.00
N. Deutch	4th & Main	4.05
F. Crassen	Temple & Broadway	5.00
W. Schulman	7th & Spring	4.50
R. Charon	7th & Broadway	4.05
H. Levinson	8th & Broadway	4.05
J. Robbins	7th & Hill	3.00
S. J. Berman	9th & Broadway	4.00
T. Cordero, Jr.	12th & Maple	.40
G. Ramerez	12th & San Pedro	2.10
L. Broguiere	12th & Central	.40
F. Borrors	5th & Wall	1.50
I. Blakeman	5th & San Pedro	1.00
O. Geiger	6th & Los Angeles	1.00
L. R. Geiger	5th & Town	1.00
E. D. Lake	5th & Los Angeles	1.75
R. Cordero	9th & San Pedro	1.00
M. Aranda	7th & San Pedro	1.25
A. Fabricant	Hollywood & Cahuenga	3.00
E. Richmond	Hollywood & Highland	3.00
R. G. Price	Sunset & Highland	1.50
Arthur Price	Sunset & Vine	1.50
Sandy Bressman	Hollywood & Western	1.50

M. Blacker	Hollywood & Vine	4.00
F. Bengles	Hollywood & Las Palmas	1.00
H. Silverman	Sunset & Western	1.50
W. P. Wallace	Melrose & Western	2.00
W. Y. Smith	Santa Monica & Vine	1.50
A. Stewart	Santa Monica & Western	3.00
J. Packard	Melrose & Vine	1.50
G. W. Gosek	3rd & La Brea	2.00
F. Sarach	Wilshire & La Brea	3.00
R. Thornberry	Beverly & Western	1.50
N. P. Linowski	Wilshire & Fairfax	3.00
C. O. Knox	3rd & Western	1.50
C. Woods	2nd & Western	1.50
P. Guzman	Wilshire & Western	1.50
D. Overstreet	6th & Western	2.00
N. Stotter	Pico & Rimpau	1.00
J. Harrington	Pico & Western	1.00
F. C. Sowell	Wilshire & Vermont	1.00
J. Kanter	8th & Vermont	3.00
A. Huizing	Pico & Vermont	2.00
P. Polsky	6th & Vermont	1.00
J. C. Goode	10th & Western	1.00
J. E. Coulter	Beverly & Vermont	1.50
D. Lynch	Special Event	2.50
J. Haach	Pico & Robertson	1.50
C. T. Brown	Washington & Rimpau	1.00
A. Laurence	Jefferson & Vermont	3.00
G. Bessonett	Adams & Vermont	1.00
E. Renfro	Washington & Vermont	3.00
R. Kent	35th & Vermont	1.40
H. Basil	Slauson & Western	2.40
J. Bell	48th & Western	2.40
M. Miller	Slauson & Vermont	2.50
F. Reinhart	Slauson & Crenshaw	2.15
S. Goldfinger	Vernon & Vermont	2.10
A. A. Lindsley	54th & Crenshaw	2.15
A. Stillwater	Vernon & Hoover	2.40
F. Winters	Vernon & Western	2.40
G. L. Whitford	54th & Vermont	2.10
V. Newell	54th & Vermont	2.00

C. Parnell	81st & Vermont	1.40
J. Burger	Manchester & Vermont	3.00
J. Martelloti	Florence & Vermont	2.15
S. Kahn	Florence & Broadway	2.40
E. Cralego	Florence & Figueroa	2.00
D. Kadish	Manchester & Broadway	3.50
W. Keeler	Manchester & Figueroa	2.40
C. Spiller	87th & Broadway	1.00
R. Lambert	Washington & Central	2.25
C. Lott	Vernon & Central	2.10
A. Frye	Jefferson & San Pedro	1.90
W. Parhn	Vernon & Long Beach	1.40
A. M. Mendez	Washington & San Pedro	1.90
L. Garcia	Vernon & Main	1.90
L. Velasco	Vernon & Avalon	2.40
J. Apice	Pico & Alvarado	2.00
M. J. Shephard	Washington & Figueroa	2.00
T. H. Ash	Wilshire & Westlake	1.00
J. Crutcher	6th & Alvarado	2.00
E. K. Bogadules	7th & Union	1.00
P. Spampinato	7th & Alvarado	3.00
B. Deane	6th & Rampart	1.00
R. Crawford	Silver Lake & Sunset	1.00
T. R. Mathews	Brooklyn & Soto	2.00
S. R. Duarte	Whittier & Kern	2.00
F. Rosenthal	Jefferson & Main	8.50
T. M. Doyle	Jefferson & Figueroa	1.90
W. B. Wahnish	Santa Barbara & Western	2.40
S. Kaplan	Santa Barbara & Vermont	2.25
J. M. Traub	39th & Vermont	1.40
W. Lloyd	39th & Western	2.40
L. Rosenthal	Figueroa & Santa Barbara	3.50
J. Monroe	Vernon & Broadway	3.00
R. Fernald	Vernon & Figueroa	2.40
A. Monje	7th & Alameda	.40
B. Estada	Olympic & Alameda	.40
J. E. Hill	Compton & Florence	2.40
S. Jaffee	68th & Central	1.40
H. McLean	Slauson & Compton	2.40
C. Hinderer	Slauson & Main	1.90

Mr. Cosgrove: Will it be stipulated, Mr. Mouritsen, that Board's Exhibit 9 has no application to the Los Angeles Times case?

Mr. Mouritsen: That may be so stipulated.

Mr. Hall: And the same stipulation as to the Los Angeles Examiner will be made? [984]

Mr. Mouritsen: That will be made.

Trial Examiner Kennedy: 1-Y? You are stipulating on the definition of terms used in Board's Exhibit 1-Y, is that right.

Mr. Mouritsen: Yes. And in accordance with that matter, Mr. Examiner, in order that the stipulation may coincide, it would be necessary for the union to amend its petition with reference to the Stockholders Publishing Company, Inc., namely, Board's Exhibit 1-Y, so that from the appropriate [985] unit claimed the words "main spot newsboys" would be removed, so that the definition or the appropriate unit claimed would then read "all full-time newsboys and check men who are engaged to sell the News within the city limits of Los Angeles, California, excluding bootjackers, temporary, casual and part-time newsboys."

Mr. L. B. Binford: Which is in accordance with the manner in which the petition directed against the Herald and Express was amended, is that right?

Mr. Mouritsen: Yes, that is correct.

Mr. L. B. Binford: There is no objection to that amendment.

Trial Examiner Kennedy: It is so ordered. [986]

After Recess:

(Whereupon, the hearing was resumed, pursuant to recess, at 1:00 o'clock, p. m.)

Mr. Mouritsen: In support of this claim to represent the people within the unit claim appropriate so far as the Stockholders Publishing Company, Inc. is concerned, the union is prepared to present for the Trial Examiner's inspection a group of cards, for your inspection and comparison with the list presented by the Stockholders Publishing Company.

Trial Examiner Kennedy: To be compared with Board's Exhibit 9, is that it?

Mr. Mouritsen: Yes, that is right.

Trial Examiner Kennedy: Let the record show I have received the group of cards from the Board's Attorney, reading as follows:

"Card of authorization. Date, blank. I hereby designate and select the Newsboys L. I. Union No. 75, C. I. O. to represent me for purposes of collective bargaining with respect to rates of pay, wages, commissions, bonuses, hours of employment and other conditions of employment."

Place for signature. Place for address. Under which appears: "I sell papers for: blank and blank corner and blank. I understand that the above information is to be [988] used in connection with Labor Board cases."

These cards I have indicated I have received for examination purposes, I find that there are a total

of approximately 193 such cards, 66 of which bear signatures which appear to be the names of persons listed on Board's Exhibit 9.

All of these cards are dated between the dates of February 28th, 1940, and June 7, 1940, inclusive.

I wish the reporter to note that those date limits apply to the examination of cards concerning the Herald and Express case also. I will now return the cards to the attorney for the Board.

Mr. Hall: It will be stipulated, will it, Mr. Mouritsen, that this examination which has just been referred to by the Examiner has nothing to do with the Los Angeles Examiner?

Mr. Mouritsen: That may be so stipulated, except that part that would go to show the nature of the organization, inasmuch as the same organization is also involved with the Examiner.

Mr. Hall: Very well.

Mr. Cosgrove: The same stipulation, Mr. Mouritsen, with reference to the Los Angeles Times?

Mr. Mouritsen: Yes. [989]

Mr. Compton: Have you decided whether you would offer the same stipulation to me?

Mr. Mouritsen: No, I don't think I can, Mr. Compton, inasmuch as many of these same names appear upon the—they are the same check men or wholesalers who operate for the Evening Herald and Express.

Mr. Compton: I understand that all right, but I understand that the evidence appertaining to them appertains to them only in their connection

with the News, and the evidence that you will introduce will be evidence produced from the employees of the News and so on. I mean, no connection with our organization.

Mr. Mouritsen: Yes, I think that may be so stipulated. [990]

FRANK BENJAMIN SMITH

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Smith? A. 323 East Fifth.

Q. In the city of Los Angeles?

A. Yes, sir.

Q. And have you sold papers for the News?

A. Yes.

Q. When did you start to do that?

A. I started with the News in—I believe it was in January—December or January—I am not sure just which it was offhand.

Q. Of this year?

A. Well, yes; December, last year, or January of this year. I am not just sure which.

Q. And where did you start selling papers for the News? A. Fifth and Los Angeles.

Q. And did you handle any other papers, other than the News, at that spot? A. No, sir.

Q. Between what hours did you work at that time?

(Testimony of Frank Benjamin Smith.)

A. From 5:00 to 10:00 in the morning. [991]

Q. And who was your district manager?

A. Lou Law.

Q. And at what price did you receive the News?

A. Well, I paid two cents for each paper. Is that what you mean?

Q. Yes. And you obtained those from Lou Law? A. Yes, sir.

Q. At that spot did you have any racks?

A. Yes, two.

Q. Who supplied those racks?

A. I did—well, the News supplied—you mean the racks, themselves?

Q. Yes.

A. Well, I don't know. I guess the News supplied them. They were on the corner when I took it over, if that is what you mean.

Q. What did you do with reference to those racks?

A. Well, I kept papers in them at all times, and any that were lost I had to pay for them out of my own pocket.

Q. Did anybody instruct you to put the News in those racks? A. Lou Law.

Q. At the time when you started to sell there did Lou Law say anything to you regarding the hours that you were to be on the corner? [992]

The Witness: Yes.

Q. (By Mr. Mouritsen) And where did he say anything to you about that?

(Testimony of Frank Benjamin Smith.)

A. When he told me the corner I was going to take, he told me the hours I was to be there.

Q. Well, where did you speak to him about these matters?

A. In front of the Pacific Electric Station.

Q. Was anyone else there other than you and Mr. Lou Law?

A. Well, I don't remember right offhand. There might have been others around, and then there might not. I don't remember offhand.

Q. Now, would you tell us everything that Lou Law said to you at that time and what you said to him?

A. Well, at that time he just told me that the corner he was going to give me was at Fifth and Los Angeles; I should be there between 4:30 and 5:00 in the morning and work until 10:00 and check in at the Pacific Electric Station.

Q. Has that been the practice that you followed after that time?

A. No, I go on the corner a little earlier now, when I make the corner. [993]

Q. While you were operating on the corner of Fifth and Los Angeles, did you receive any advertising matter from Lou Law? A. No, sir.

Q. Did you receive any of those placards?

A. No. You mean those cards in the racks?

Q. Yes. Did you receive any? A. No.

Q. And about how long did you operate on that corner?

A. Oh, about four weeks, I think.

(Testimony of Frank Benjamin Smith.)

Cross Examination

Q. (By Mr. L. B. Binford) Mr. Smith, was that your first experience when you went to work at the corner of Fifth and Los Angeles?

A. No, sir.

Q. In selling newspapers? A. No, sir.

Q. Where had you been working next prior to that time?

A. I had been working for the Examiner and Times in the mornings in front of the Pacific Electric Station.

Q. How long had you been working there for the Examiner and Times?

A. I am not just sure. [994]

Q. Well, two weeks, or two months, or two years?

A. Well, about—between a month and two months, I think.

Q. What had you been doing before that?

A. Well, I had worked another spot for the Examiner and Times, and then I had worked on the Herald away out in traffic.

Q. How long ago was it that you worked for the Herald and Express selling their papers?

A. About a year ago.

Q. And how long did you continue that work?

A. I continued, I think, for about six months, and then transferred to a new corner for a while until I got a chance to come downtown.

Q. How long have you been selling newspapers?

(Testimony of Frank Benjamin Smith.)

A. Off and on for about two or three years.

Q. Well, which? Two or three?

A. I think I started in March or April of 1938, I believe.

Q. Just a little over two years, then. And how many different corners have you sold on during that period of time?

A. Well, I don't know, because when I first started I worked many corners as relief man for the Examiner nights.

Q. How many corners have you worked on apart from the time you worked as relief man?

A. Well, I have worked about—well, the corners that I [995] have not worked relief on have been about seven or eight.

Q. You have worked on about seven or eight different corners— A. Yes.

Q. (Continuing) ——besides the corners that you worked as relief man? A. Yes.

Q. How long a period of time were you working as relief man before you started working the corners as a regular man?

A. About four or five weeks.

Q. Then over a period of approximately two years you have worked on some seven or eight different corners? A. Yes, sir.

Q. During that time you have sold the Times, sold the Examiner, sold the Express, and you have sold the News, is that right? A. That is right.

Q. Did you have any idea what those racks were

(Testimony of Frank Benjamin Smith.)

for when you first saw them down at the News here two or three weeks ago, when you went to work—or two or three months ago? A. Yes, I did.

Q. You knew what they were for, didn't you?

A. Yes.

Q. You knew absolutely what they should be used for, didn't you? [996] A. Yes, sir.

Q. (By Mr. L. B. Binford) You didn't need any instructions at all on that, did you?

A. No, sir. Just a minute. When he told me about those racks I hadn't seen them.

Q. But I say, if you had seen them, you would have known what they were for, wouldn't you?

A. Yes.

Q. Didn't I understand you to say the racks were on the corner when you went there?

A. Yes, they were there.

Q. You say you pay two cents for the paper?

A. Yes.

Q. That is the News? A. Yes.

Q. You pay that to Mr. Law? A. Yes.

Q. And you say you never received any advertising placards of any kind?

A. Well, not on that one particular corner.

Q. That's what I mean. Did you ever sell the News before?

A. I hadn't sold the Daily News before. I had sold the Evening News before.

Q. Where did you sell the Evening News? [997]

A. Pico and Rimpau.

(Testimony of Frank Benjamin Smith.)

Q. When?

A. Last October and November.

Q. And who was your district man then?

A. Arnold Blum.

Q. Were you on a main spot at that time?

A. The only spot—yes, the main spot.

Q. Did you have any other boys that you counted out papers to?

A. Well, I had one other boy that I counted out papers to. That wasn't worked as it does on regular corners. That was worked a little different out there.

Q. Do you sell any copies of the Times in the morning? A. No, sir.

Q. Never?

A. Unless it is for the other boy on the corner when he is away.

Q. I didn't ask you "unless." I said, do you sell any copies of the Times in the morning?

A. If the other boy is off the corner, just for him.

Q. Do you sell any copies of the Examiner?

A. In the same case.

Q. Under the same circumstances?

A. Yes. And then I sell the Examiner sometimes on Sunday mornings. [998]

Q. Do the boys who sell the Times and the boys who sell the Examiner sometimes leave papers with you for you to sell?

A. No; they don't leave any for me to sell ex-

(Testimony of Frank Benjamin Smith.)

cept when they go and eat they leave their papers there, and if anybody wants one I give it to them.

Q. You make no profit out of that?

A. I don't make any profit out of that.

Q. Do you sell any Times or Examiners during the mornings, or did you while you were on this corner, out of which you made any profit at all?

A. I do on Sunday mornings now.

Q. But I mean during the time you were on the corner of Fifth and Los Angeles.

A. Oh, no.

Q. Did you handle any other papers at all there?

A. No, sir.

Q. Or any magazines? A. No, sir.

Q. None of any kind? A. Of any kind.

Q. While you were working on the corner of Fifth and Los Angeles you checked in, you said, to the P. E. Station?

A. Yes, in front of the P. E. Station.

Q. And when would you check in?

A. About ten o'clock. [999]

Q. Each morning? A. Yes.

Q. And would it be at that time that you would pay for the papers? A. Yes.

Q. You wouldn't pay for them until after you had sold them?

A. After I had sold them.

Q. And then those you didn't sell you returned?

A. Yes.

Q. And got full credit for them? A. Yes.

(Testimony of Frank Benjamin Smith.)

Q. You never had any objection to using those racks, did you?

A. Well, once in a while I used to lose quite a few. That is the only objection.

Q. Did they help you sell your papers?

A. Well, a few, yes.

Q. The way they would be lost would be because somebody would steal one, isn't that true?

A. Yes.

Q. Did you know when you went on the corner at Fifth and Los Angeles what time the first edition of the News came on the street?

A. The first edition of the News? [1000]

Q. Yes, come on the street.

A. Yes, I knew what time the first edition came on.

Q. You already knew that, did you?

A. Yes.

Q. What time was it?

A. The first edition comes on about between 10:30 and 11:00 at night.

Q. Does that come on the street at that time or is that the time the first edition is printed?

A. That is the time it comes on the street.

Q. On the night before? A. Yes.

Q. That it is dated?

A. No, it is dated for—like tonight, it will come out dated for tomorrow morning.

Q. And it comes on the street when?

A. Between 10:30 and 11:00, I believe.

(Testimony of Frank Benjamin Smith.)

Q. Had you ever sold that paper?

A. No, sir.

Q. Do you know whether that paper is sold on the streets or not? A. Yes.

Q. But you never sold it?

A. I never sold it.

Q. And did you know what time, when you went on Fifth and [1001] Los Angeles, what time the fourth edition came out? A. Yes.

Q. What time was that?

A. Four o'clock.

Q. You knew that was the time that paper was published? A. Yes.

Q. Is that the edition that you sold?

A. Yes.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Smith, where are these racks situated?

A. One is on the—is in front of McDonnell's restaurant, and the other one is on the northeast corner.

Q. And where did you carry on your operations? Where did you sell?

A. In front of the Motor Transit Depot.

Q. How would the district manager deliver those papers to you at your spot?

A. The first ten at 4:30, between 4:30 and 5:00, I picked up at Fifth and Wall; and he would bring the rest in the car to the corner.

(Testimony of Frank Benjamin Smith.)

Q. How did you know you were to pick up your papers at Fifth and Wall? [1002]

A. He told me that. After I got down to the corner the first morning, or when I checked in—I forget just when it was—he told me the next morning to pick ten up at Fifth and Wall.

Q. And then how many times, as a general matter, does he come around the district a day?

A. Once. After he brings them at five o'clock he comes around once more usually.

Q. Where did you check in at the conclusion of your operations?

A. In front of the Pacific Electric Station, the P. E. Building, Sixth and Main.

Q. How far was this rack in front of McDonnell's restaurant from the spot where you sold papers yourself?

A. Well, it was about—across the street and about three doors down.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Frank Benjamin Smith has no application to the Times case? [1003]

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: May the same stipulation be made with respect to the Los Angeles Examiner?

Mr. Mouritsen: Yes, I think so.

Mr. Compton: And the same as to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: That may be so stipulated.

EDWARD VICTOR SMITH

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) And where do you live, Mr. Smith? A. 523 East Fifth Street.

Q. Do you at present sell the News?

A. I do.

Q. Where do you operate?

A. At Eighth and Main.

Q. Do you sell any other papers other than the News?

A. I carry the Times and Examiner for the convenience of customers that may need them, but I do not work for the Examiner or Times. [1004]

Mr. L. B. Binford: We move that the answer of the witness "I do not work for the Examiner or Times" be stricken as, first, a voluntary statement and not responsive to the question, and, second, on the ground it is a conclusion of the witness.

Trial Examiner Kennedy: Motion denied.

Q. (By Mr. Mouritsen) Where did you first start to sell the News, Mr. Smith?

A. Temporarily, at Eighth and Broadway.

Q. And who put you on your present spot?

A. Mr. Lou Law.

Q. Who is he? [1005]

A. That is our distributor, the district manager, as he is called.

(Testimony of Edward Victor Smith.)

Q. District manager for the News; is that correct? A. Yes, sir.

Q. When did he put you on your present spot?

A. December 4, 1939.

Q. And did he say anything to you at that time regarding the territory in which you were to sell?

The Witness: Yes, he did.

Q. (By Mr. Mouritsen) Who was present at this conversation other than yourself?

A. Just he and I.

Q. (By Mr. Mouritsen) Yes, where was the conversation? Where did it take place?

A. At Eighth and Broadway when he came by to take me to [1006] this other corner.

Q. Now, will you state what Mr. Law said to you and what you said to Mr. Law?

A. Mr. Law just told me he was going to transfer me to the corner of Eighth and Main, and there would be a man there to show me around where the racks was, and where I was to go. That was all there was to it.

Q. I see. And after that time did you go see this man—this other man? A. Yes, sir.

Q. Who was that other man?

A. That was the man that preceded me. The other man that was there temporarily.

Q. Did this other man show you where the racks were? A. Yes, sir.

Q. With reference to the territory where you were to sell what did this other man do?

(Testimony of Edward Victor Smith.)

A. Oh, he just showed me around, that's all.

Q. Where do you receive delivery of the first edition of the News?

A. Right now at Seventh and Main, but I have that at my own request.

Q. Well, of whom did you make that request?

A. At the beginning of this year.

Q. Well, from whom? [1007]

A. From Mr. Law.

Q. After you receive the first edition, do you receive later—does he come around later with different copies?

A. He comes around with the balance of my quota, what I need, he comes around one hour afterward.

Q. And where do you take delivery of those?

A. Eighth and Main.

Cross Examination

Q. (By Mr. L. B. Binford) What time do you quit work, Mr. Smith? A. Around ten o'clock.

Q. Around ten in the morning? A. Yes, sir.

Q. When do you check in?

A. At the same time.

Q. With whom?

A. Mr. Law. Well, right now he has got a relief man there, but he is our regular district man.

Q. Ordinarily with Mr. Law? A. Yes, sir.

Q. You say you sell the Examiner and Times for the convenience of your customers. A. Yes, sir.

Q. Do you make any profit on that sale? [1008]

(Testimony of Edward Victor Smith.)

A. Yes, I buy them at wholesale out of my own pocket.

Q. So, you make a profit on each copy of the Examiner and a profit on each copy of the Times that you sell for the convenience of your customers, is that right?

A. Yes, sir. I buy them from another man—from another corner.

Q. But you buy them at wholesale price?

A. Yes, sir.

Q. Do you sell any other papers there?

A. Just the News.

Q. That is what I mean, apart from the News, Times and Examiner? A. No, sir.

Q. You do not sell the Herald and Express at all?

A. No, sir.

Q. You do not deal in magazines there?

A. No, sir.

Q. You do not sell the People's World?

A. No, sir.

Q. Are you a member of the Newsboys Union Local No. 75, Los Angeles?

A. Yes, sir, I am.

Q. When you conclude your morning about ten o'clock do you return papers that you have on hand that are unsold? A. Yes, sir. [1009]

Q. You do not have to pay for those, do you?

A. No, sir.

Q. And do you give your district man some idea as to how many papers you may want from time to time, or do you leave that entirely to him?

(Testimony of Edward Victor Smith.)

A. Several mornings I have to make a different —I have to change.

Q. Then you have that within your own control as to how many you want to order?

A. I usually tell him the day before.

Q. As to how many you will want?

A. Yes, sir.

Q. Where were you receiving the delivery of papers prior to the time the change was made at your request to Seventh and Main?

A. Eighth and Broadway—Eighth and Main.

Q. And you prefer to have them over at Seventh and Main?

A. Yes, because I had to run the flower market. It is more convenient for me to get my papers at Seventh and Main instead of Eighth and Main at that time.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Smith, how many copies of the Times and Examiner do you sell on an average in the morning?

A. Five or six, that's all. [1010]

Q. And how many copies of the News do you generally sell per morning?

A. Monday, Wednesday, Friday and Saturday I may sell about 125; other mornings it will be about 90, that's all. Tuesday and Thursday the market is practically closed.

Q. At what time in the morning do you start?

A. Around 4:30.

(Testimony of Edward Victor Smith.)

Q. Is that the same on every day of the week?

A. Yes, sir.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Victor Smith has no application to the Los Angeles Times case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: May the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: May the same stipulation be made with relation to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: That may be so stipulated. [1011]

SIDNEY GLEN MURRAY

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Murray? A. 1921 South Orchard.

Q. Is that in the city of Los Angeles?

A. Yes, sir.

Q. You are district man for the News, is that correct? A. That is right.

Q. What editions of the News do you handle?

A. The 4 Star edition.

(Testimony of Sidney Glen Murray.)

Q. Just that one edition, is that correct?

A. That is right.

Q. Will you explain briefly what your duties in connection with the circulation of that edition of the News are?

A. To deliver to the corner boys, racks and news stands.

Q. Will you describe briefly just how you operate, what you do in the morning, and just cover the entire day, so far [1012] as your duties are concerned?

A. Well, I start in the morning at approximately four o'clock and I deliver all these papers to the respective spots, a certain amount of papers, and then I make a re-cover of those spots to see if they have enough papers on all of them.

The Witness: And then I return and collect for all those excepting the news stands, which I collect every month—once a month.

Q. (By Mr. Mouritsen) Do you supply certain newsboys—strike that.

Within what district do you operate?

A. I operate from Washington to 56th on Broadway and Main and Avelon, and from Washington at Vernon on Central over to Alameda.

Q. And do you supply newspapers in that district? A. Yes, sir, ten of them.

Q. Ten newsboys? A. Right.

Q. And when do you supply those newsboys with papers?

A. From 5:00 to 6:00 o'clock.

(Testimony of Sidney Glen Murray.)

Q. How long do they remain on their respective spots?

A. Well, different times. Some of the boys are school boys and others are men, and I check the school boys in not later than 8:00 o'clock, and I check the men in from 8:30 [1013] until 9:30.

Q. How many of the boys or men do you supply with papers the first time you go around the district?

A. Well, I only supply three men the first time I go around because I have to pick the boys up and bring them to their corners before I supply their papers.

Q. And about how long after you make your initial coverage is it before you make your re-coverage?

A. Well, I start my first run at 4:00 o'clock and end that at 6:00, and start my re-covery at 7:00.

Q. Do you return to the plant of the News between runs?

A. Well, not necessarily, no. I just happen to end up near the plant and I eat my breakfast near there; that is all. I don't have to return there at all.

Q. And at what price do you supply the newsboys in your district with papers?

A. Two cents apiece, with the exception of those that I give a little bonus, but that personally is between me and the boys. That don't concern the company at all.

Q. And so far as the price at which you furnish

(Testimony of Sidney Glen Murray.)

papers to the newsboys is concerned, is that fixed by the company or by you?

A. That is fixed by me.

Q. Have you recently put any newsboys on any of those corners? [1014]

A. Well, I don't know what you mean by "recently."

Q. Well, within the last year.

A. Oh, yes, I have put on two boys and one man.

Q. Would you outline in general what you say to those people when you put them on the corners?

A. Well, nothing only that they come to me for a job and I ask them if they want to cover that spot and if they like it, why, to keep it and if they don't I will have to look up somebody else, either me or the Examiner or Times fellow.

Q. Do any of those boys in your district handle other papers?

A. They all handle all three of them, my boys.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Sidney Glen Murray has no application to the Times case?

Mr. Mouritsen: Yes, that may be so stipulated.

Mr. Hall: Will you enter into the same stipulation with reference to the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated.

Mr. Compton: And the same stipulation with reference to [1015] the Los Angeles Evening Herald and Express?

Mr. Mouritsen: It may be so stipulated. [1016]

JAMES V. APICE

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Mr. Apice, where do you live? A. At 1236 South Alvarado.

Q. That is in the city of Los Angeles?

A. Yes, sir.

Q. And do you at present sell the Evening Herald and Express? A. Yes, sir.

Q. And the News? A. That is right.

Q. Where do you sell?

A. Pico and Alvarado.

Q. How long have you been operating there?

A. About seven years.

Q. From whom did you obtain the corner?

A. Oh, a friend of mine.

Q. Who was that?

A. Well, some fellow that was working on the corner.

Q. Who is your News district manager at the present time?

A. Well, there has been about three—two different men in the last three weeks because the regular district man is [1017] on vacation right now.

Q. Who is your regular district man on the News?

A. To tell you the truth, I don't know his name.

Q. To refresh your recollection, isn't your News district man Ivan Moore?

(Testimony of James V. Apice.)

A. Well, I know his first name, Ivan.

Q. Do you receive a check from the News?

A. Yes, sir.

Q. And about how long have you received that check?

A. Well, I believe it is about two years.

Q. (By Mr. Mouritsen) Well, you say you started to receive the check about two years ago?

A. Yes.

Q. And do you know why or for what work you receive that check?

A. Well, to tell you the truth, I don't.

Q. Well, haven't you ever asked your News district man why he gives you that check or why you receive that check?

A. Well, I don't just know if I know.

Q. Do you count papers out to—or count the News out to [1018] certain other boys? A. Yes.

Q. And how many boys?

A. Well, I got three boys working for me, but I only check one boy in.

Q. But you count them out to three, is that correct? A. Yes.

Q. But you check in only one? A. Yes.

Q. Now, do any of those boys work on what is known as a traffic spot? A. One.

Q. Will you explain what a traffic spot is?

A. Well, working in a safety zone. [1019]

Q. (By Mr. Mouritsen) Did your News district manager ever say anything to you about the boy working in the traffic spot? A. Yes.

(Testimony of James V. Apice.)

Q. And when did you have any such conversation?

A. Well, since the beginning, when the Herald newsboys took over the selling of the News.

Q. And where did you have that conversation?

A. Well, right on the corner.

Q. Was anyone else present?

A. I don't believe so.

Q. Do you recall the name of the district manager at that time?

A. Well, the same name, Ivan.

Q. Now, will you state what he said to you and what you said to him?

A. Well, as it has been quite a long time, I can't recall what was said.

Q. Well, not the exact words, but just in substance what he said to you and what you said to him.

A. Well, the agreement between us was for me to get the boy working—— [1020]

Q. (By Mr. Mouritsen) Well, now, Mr. Apice, will you state just in substance what Ivan said to you and what you said to Ivan, and, if you can, just say who said what, what you said and what Ivan said.

A. Well, you know, it has been a long time, and I can't just remember what was said. [1021]

Q. No, not the exact words; that would obviously be impossible. Just in substance what he said to you and what you said to him.

(Testimony of James V. Apice.)

A. Whatever I said before, I would just have to repeat it.

Q. Well, what did Ivan say to you at that time?

A. Well, he says to try to keep the boy out there at a certain time.

Q. (By Mr. Mouritsen) And then what did you say? A. I said it was all right.

Q. And then what did he say, if anything else?

A. No, he didn't say anything else that I remember.

Q. Well, did he say anything about the display, the way you were to hold the paper?

A. Oh, yes.

Q. Well, now, tell us just what he said to you about that.

A. Well, he told me to keep the News on the outside of the Herald all the time, and keep my News display on the corner as much as I could in a place where it could be seen.

Q. And is that about all substantially that he said to you at that time?

A. That is all that he said.

Q. Did you say anything else? [1022]

A. No, sir.

Q. Is that the way you have operated since that time? A. Yes, sir.

Q. You have kept the boy out there?

A. Yes, sir.

Q. Were you ever taken off your corner, Mr. Apice? A. Yes, sir.

(Testimony of James V. Apice.)

Q. Who took you off your corner?

A. My district man, Mr. Hutchinson.

Q. For what paper is he the district man?

A. The Evening Herald.

Q. And about when did he do that?

A. Well, I don't quite remember the date.

Q. Well, if you can, tell us the month or the year. A. I don't remember.

Q. How long ago was it?

A. I think it has been quite a long time. Maybe a year.

Q. Well, is there any way you could fix that more definitely? A. (Pause.)

Q. How long did you remain off the corner?

A. I believe four days.

Q. And before you went back, did you have any conversation with anyone connected with the Herald downtown here?

A. Yes, sir; I believe it was Mr.—somebody in the office. I have forgotten the name right now. [1023]

Q. To refresh your recollection, was that a Mr. Neal? A. Yes, sir.

Q. And where did you talk with him?

A. Over in the office—in the Evening Herald office.

Q. Was anyone else present other than you and Mr. Neal? A. No, sir.

Q. (By Mr. Mouritsen) I believe you said, Mr. Apice, that it was over a year ago, is that correct?

A. Yes, sir, that is right.

(Testimony of James V. Apice.)

Q. Well, how much more than a year ago was that?

A. I don't quite remember the right month.

Q. Well, was it in the summer or——

A. (Interrupting) I believe it was in the end of the summer.

Q. Well, by "the end of" do you mean like August or September or——

A. (Interrupting) Like September or October.

Q. Would that be 1939?

A. No. I believe 1938.

Q. I see. October or November, 1938, is that correct? [1024] A. Yes, sir.

Q. Will you state what you said to Mr. Neal and what Mr. Neal said to you?

A. Well, I went to Mr. Neal and asked him the reason why I was fired and he tried to say somebody made some accusation against me, and the reason he says I was fired is because there was so much going in the papers about that kind of complaint that was made against me.

I says—I said to Mr. O'Neal it was no such a thing because my name was clean and I could get any witness in my district to—you know, voice for me, and that is all there was to it.

And he says he was going to think it over and let me know about it.

Q. After that you did go back to work?

A. Yes, sir. [1025]

Q. (By Mr. Compton) You testified that an accusation was made against you? [1026]

(Testimony of James V. Apice.)

A. Yes, sir.

Q. What was the nature of the accusation?

A. Well, Mr. Neal claimed I passed a wise remark against some girls passing the corner. He claimed that I passed some remarks.

Q. To some woman passing the corner?

A. Yes, sir. But I was not guilty of that.

Mr. Cosgrove: May we have a stipulation, Mr. Mouritsen, if you please, that the testimony of Mr. James V. Apice does not apply to the Los Angeles Times?

Mr. Mouritsen: That may be so stipulated.

Mr. Hall: Will the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: Yes, that may be so stipulated. [1027]

THOMAS HILLIARD ASH

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Mr. Ash, where do you live? A. 911 South Maple.

Q. And do you sell the News and the Evening Herald and Express at this time?

(Testimony of Thomas Hilliard Ash.)

A. Yes, sir.

Q. Where do you operate?

A. Wilshire and Westlake.

Q. Do you at the present time receive a check from the Evening Herald and Express?

A. I receive one from the Evening News.

Q. Well, do you receive one from the Herald and Express? A. No, sir.

Q. During what hours do you sell at that place?

A. From 11:30 to 7:00 at night. [1028]

Q. And who is your News district manager?

A. Robinson is his last name.

Q. What duties do you perform for the News for which you receive the check?

A. I sell the News for them and I deliver two of them.

Q. Do you have any boys on that corner to whom you count out copies of the News?

A. I have one.

Q. Do you also give the copies of the Evening Herald and Express, count those out to him?

A. Yes, sir.

Mr. Cosgrove: Will it be stipulated, Mr. Mouritsen, that the testimony of Thomas Hilliard Ash has no application to the Times case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: Will the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated. [1029]

ISAIAH JACOB MOORE

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Moore? A. 625½ West 47th Street.

Q. In the city of Los Angeles? A. Yes.

Q. Are you a district manager for the News?

A. I am.

Q. And what editions of the paper do you handle?

A. I handle the Five Star, Six Star, Eight Star, Nine Star and Ten Star.

Q. Will you explain briefly what your duties are with reference to the circulation of those papers?

A. I take the editions around to the boys, to racks and to news stands. I check them in. I hand the papers out to the boys and also check them in for them, and the racks the same way.

Q. And in what district do you operate?

A. I have Station Six. It is in the southwest part of town, between Hoover and Crenshaw, and between Slauson and Santa Barbara.

Q. And will you explain briefly how you operate, how you [1030] perform your duties?

A. I go around each edition and put out papers to boys and racks and news stand, and at the end of the day I collect—I check the boys in and also the racks.

(Testimony of Isaiah Jacob Moore.)

Q. Do you supply a number of newsboys in that area?

A. Yes, I have ten all-day boys that work all day for me, every edition, and I have about twenty to thirty boys that work after school.

Q. During what hours do you work?

A. I work from approximately 10:20 in the morning until 6:15 at night.

Q. And during what hours do the newsboys whom you supply operate?

A. Well, ten of them work from—I don't know exactly what time they get there, but they are there when I bring my first edition around and they are there when I leave at night. Did you want to know about the boys that work after school?

Q. Yes; during what period of the day do they work?

A. I imagine approximately 3:30 until 7:00 o'clock.

Q. They secure their papers in turn not from you but from these other newsboys?

A. That is correct.

Q. How long have you been a district manager in this district? [1031]

A. In this district I have been there a little over two years, between two and three years.

Cross Examination

Q. (By Mr. L. B. Binford): About how many newsstands do you service, Mr. Moore?

A. Approximately thirty-five to forty.

(Testimony of Isaiah Jacob Moore.)

Q. That is, you deliver papers each day to thirty-five or forty news stands?

A. Just a moment on that. Do you mean news stands, businesses that handle my papers, or racks?

Q. No; I meant news stands. You spoke of news stands.

A. Well, news stands, I have about twenty-two of them.

Q. Do you buy your papers at wholesale from the News? A. Yes, sir.

Q. Then you sell them out to the boys?

A. Yes, sir.

Q. And you get 1¾ cents?

A. Yes, sir, that is correct.

Q. For each paper? A. Yes, sir.

Q. And likewise in dealing with these news stands, you sell your news stands at 1¾ cents?

A. I sell them at two cents to the news stands.

Q. You are the sole arbiter, then, of what price you are [1032] going to get for your papers, aren't you? That is, you can sell them to the news stands at two cents and to the newsboys at 1¾, if you want to?

A. No. It is supposedly 1¾ to all newsboys.

Q. That is what I say, you sell them to the newsboys at 1¾ cents, and to the new stands at two cents; is that right?

A. Yes, sir, that is correct.

Q. And on these news stands that you speak of —just what are they?

(Testimony of Isaiah Jacob Moore.)

A. They are individual businesses, confectionery stores, or sweet shops, or things of that kind —some drug stores.

Q. They are all within the territory that you operate in? A. Yes, sir.

Q. About how many afternoon school boys do you have in your——

A. (Interrupting): Approximately twenty to thirty.

Q. Do you know what time they come on?

A. Well, they are all supposed to be there at 3:30.

Q. You do not know for sure what time?

A. No, I do not know for sure.

Q. You are not sure when they come on?

A. No, I couldn't very well be.

Q. They are supposed to come right away, quite soon after school? [1033] A. Yes, sir.

Q. And you are not there to check up to see when they get there?

A. No. I haven't any way of checking on them.

Redirect Examination

Q. (By Mr. Mouritsen): Who fixes the price of 1¾ cents for the papers that you deliver to the newsboys?

A. Well, that is set by the office, the News office.

Q. Do your receive a check from the Stockholders Publishing Company for your work with them?

(Testimony of Isaiah Jacob Moore.)

A. Well, I have a different setup than that. I have a minimum guarantee.

Q. Do you have in your district, Mr. Moore, newsboys who receive checks from the News?

A. Yes, I do. I have ten of them.

Q. And you do not pay them those checks?

A. No, I don't. [1034]

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of Isaiah Jacob Moore has no application to the Times-Mirror case?

Mr. Mouritsen: So stipulated.

Mr. Hall: Will the same stipulation be made with respect to the Los Angeles Examiner?

Mr. Mouritsen: So stipulated.

Mr. Compton: The same stipulation as to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So stipulated. [1035]

DUTTON F. O'BRIEN

called as a witness by and on behalf of the respondent, the Stockholders Publishing Company, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. L. B. Binford): You have been sworn, Mr. O'Brien? A. Yes, I have.

Q. And you were here in the courtroom and heard the testimony of the witness Mr. Moore?

[1038]

A. I was.

(Testimony of Dutton F. O'Brien.)

Q. I will ask you whether or not the Stockholders Publishing Company, or the News, fixes the price at which its district men sell the paper or may sell the papers to newsboys or news stands?

A. It does not.

Q. Is that function of fixing the price at which the paper is sold to the newsboys or to the so-called wholesalers and to the news stands entirely in the discretion of the district man? A. It is.

Q. You sell—by "you" I mean the Stockholders Publishing Company sells its papers to these district men at a certain wholesale price, is that correct? A. Yes.

Q. And they in turn sell to the news stands and to the newsboys, is that correct?

A. That is right.

Q. Their profit is the difference between what they buy for and what they sell for, is that correct?

A. Yes.

Q. And it is discretionary with them as to their selling price? A. Yes. [1039]

Mr. Cosgrove: May it be stipulated that the testimony given by Mr. Dutton O'Brien since he was called to the stand after the afternoon recess today has no application to the Los Angeles Times-Mirror case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: May the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated.

Mr. Compton: And the same to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So stipulated.

PATRICK COMORRE

called as a witness by and on behalf of the respondent, the Stockholders Publishing Company, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. L. B. Binford): Mr. Comorre, you have been [1040] heretofore sworn and testified in this proceeding, have you not? A. I have.

Q. I believe you testified you are an organizer for the Newsboys Local Union 75 C.I.O.?

A. At the present time?

Q. No. That you were. A. I were.

Q. And during what period of time were you organizer?

A. Well, from about July, 1938, to about July, 1939.

Q. In October of 1938 you were actively engaged in organization work?

A. That is right.

Q. And during that period of time did you attend various meetings of the boys' union?

(Testimony of Patrick Comorre.)

A. Yes.

Q. And as an organizer did you ask that meetings be called from time to time?

A. Well, some meetings—the regular monthly meetings.

Q. Yes.

A. That they vote on themselves, and there is some unit meetings and special meetings that they hold.

Q. You called some of the special meetings, did you not?

A. Well, through the secretary, yes. [1041]

Q. And you would give out notices or pamphlets of sundry kinds, or dodgers would be given out calling those meetings?

A. Yes. I have distributed those cards.

Mr. L. B. Binford: Will you mark that Stockholders' Exhibit next in order?

(Thereupon, the document above referred to was marked as Respondent Stockholders' Exhibit No. 3 for Identification.)

Q. (By Mr. L. B. Binford): Mr. Comorre, I am going to show you a sheet of paper containing certain printed matter and designated "Special meeting of the Herald and News Unit of the Los Angeles Newsboys L. I. Union 75 C.I.O.," called for 8:00 p. m. Tuesday night, October 11, 121½ South Broadway, and purporting to bear your printed signature as follows: "Pat Comorre, Organizer Newsboys L. I. U. —"

(Testimony of Patrick Comorre.)

I will show you that first.

"No. 75, C. I. O.," and would ask you if you recognize such a pamphlet or notice? Just a moment and I will have it for you, Mr. Comorre.

A. (Examining document): That's right. I recognize it.

Q. And you distributed some of those, did you not, caused [1042] some of them to be distributed?

A. That is right.

Mr. L. B. Binford: Before further examination, I would like to offer this in evidence as Stockholders No. 3. Any objection?

Trial Examiner Kennedy: Received.

(Thereupon, the document above referred to was received in evidence and marked as Respondent Stockholders' Exhibit No. 3.)

Mr. Mouritsen: If I may ask one question before it is received.

Mr. Comorre, was that issued by the Union?

The Witness: That is right.

Q. (By Mr. L. B. Binford) Did you attend this meeting that is referred to in this Stockholders Exhibit No. 3, Mr. Comorre? A. That is right.

Q. And I direct your attention to the fact that while the date to the extent of 8:00 p. m. Tuesday night, October 11, appears at the foot thereof, and again at the commencement thereof, 8:00 p. m., Tuesday night, October 11th, that no year is fixed. Do you know what year that was? A. Yes.

(Testimony of Patrick Comorre.)

Q. What year was it? [1043]

A. 1938. [1044]

Q. All right. Now let me ask you this: Did you at this meeting consider the matter of setting a standard guide for all newsboys and to establish a permanent arrangement with respect to the handling of their papers for the News and the Herald and Express?

A. Well, you ask that question, yes.

Q. Was it a fact as stated in this pamphlet or notice, that it had come to your particular knowledge that these particular newsboys with the News and Herald and Express seemed to have a different opinion on the matter of their methods of selling the Evening Herald and Express and the News?

A. That was one of the reasons for holding the meeting, that was one of the reasons we held the meeting.

Q. And was it a fact the different boys didn't seem to know [1045] just what was expected of them?

A. Well, I can't answer that question without a little explanation.

Mr. L. B. Binford: Go ahead.

The Witness: You see, there was so much confusion after the consolidation——

Q. (By Mr. Binford, Interrupting) May I interrupt you and direct your attention, however, to the fact this was something over a year after the sale of the papers jointly had started?

(Testimony of Patrick Comorre.)

A. That is right.

There was a lot of confusion about how the papers should be held, by the district men of the papers. In other words, in one section the district man would tell one of the newsboys to duck t[he] News; in other words, they would holler about why in the hell don't they give the News a break, as was mentioned this morning.

By that I mean not to hide it or fold it up in such a way you couldn't see it. So one person would hold this way and another person would hold that way, and one district man would tell them that is wrong, and then another district man would tell them this is wrong, and there was so much confusion that I went to talk to some of the district men and from what I gathered, they were all trying to tell them the same thing only they were getting confused, and the newsboys were wonder- [1046] ing who to listen to in order to hold this paper out. They didn't know whether to listen to the News district man or to the Herald district man, so in order to clarify that particular thing, after talking to various district men on the News and—I am pretty sure we met in this regard with Mr. Reichert. I believe I went down—yes, I talked to Mr. Reichert about this in Mr. Reichert's office.

I think present was——

Q. (Interrupting) Now, are you still explaining about this pamphlet?

A. That is right. That is why it came about.

(Testimony of Patrick Comorre.)

In other words, I went down to see where these squawks were coming from.

Q. Just a minute, Mr. Comorre. I didn't ask you how you happened to call this meeting, nor how it came about. Do you know as a matter of fact that the record discloses the fact the same newsboys had been selling the Herald and Express and the Evening News since on or about August 25, 1937? A. Yes, I do know that.

Q. And this meeting that you referred to was called in October of 1938? A. That is right.

Q. And this same state of confusion respecting how the papers were to be held or sold had been in existence and [1047] continuing, in your opinion, ever since August of 1937, is that correct?

A. That is right.

Q. And during that period of fourteen or fifteen months it was your opinion when you called this meeting that still the newsboys didn't know what was expected of them, is that correct?

A. Well, there was so many different orders. That is, some said this——

Q. (Interrupting) Well, I say, is that correct?

A. Yes.

Q. And at that time, from your investigations as an organizer and from the information that you had received as an organizer, you had reached the conclusion, had you, that after a period of some fourteen or fifteen months of joint operations in selling, that each newsboy seemed to have a different opinion on the matter, is that right?

(Testimony of Patrick Comorre.)

A. Well, I wouldn't say "each." The various groups had here and there. It all depended on what district men they worked for.

Q. I direct your attention to the fact this pamphlet, which bears your printed signature and which you have identified, says:

"And each newsboy seems to have a different opinion on the matter." Was that your impression at that time? That [1048] is, by "that time" I mean when this pamphlet was gotten out.

A. You say each newsboy——

Q. (Interrupting) I am quoting from what you say, not what I am saying.

A. I think that is in the pamphlet, not what I said.

Q. That is right. This is the pamphlet that bears your signature in printing, and you said you recognized it.

A. Well, they may use my name as a organizer of the union. That is customary in pamphlets.

Q. I direct your attention to the fact that the concluding clause in this pamphlet reads: "Be present at this meeting and bring your best suggestions to settle this question."

A. That is right.

Q. Is that one of the purposes of the meeting?

A. That is right.

Q. To consider the matter of the method of selling and to get suggestions from various members of the Newsboys Union?

(Testimony of Patrick Comorre.)

A. Well, we were trying to get suggestions so we could satisfy everybody concerned, so there wouldn't be any more confusion.

Q. Do you remember, was any agreement drawn up?

A. No, no particular agreement. No—no written agreement; that is, you mean in particular the last part of that?

Q. Well, I read from the notice again: "Also to draw up an agreement by which Herald and News newsboys can co- [1049] operate satisfactorily with both the Herald district men and the News district men." [1050]

The Witness: No.

Cross Examination

Q. (By Mr. Mouritsen) Mr. Comorre, I note that this exhibit that is Stockholders' Exhibit 3 is headed "A special meeting of the Herald and News Unit." Will you please explain what the Herald and News Unit is?

A. Well, the Herald and News Unit is the group of newsboys that sells the Herald and News, to take up their problems—that meet to take up their problems that concerns both papers.

Q. Well, has that been a practice, for the newsboys who handle Herald and Express to meet in a unit?

A. Yes. They are both practically the same newsboys that handles both papers.

Q. There are other units in the union?

(Testimony of Patrick Comorre.)

A. Why, yes.

Q. What other units are there?

A. The Examiner and the Times and the People's World. At one time we had a Ham and Egg unit, when that paper was in existence; the Sports Weekly unit, when it was in existence. [1051]

Q. Are those general membership meetings of the union?

A. No; just that unit, of that particular newsboy selling that paper.

Q. In addition to these unit meetings, does the union hold any other meetings?

A. Yes, they do.

Q. What other meetings?

A. General membership meetings.

Q. Of all newsboys?

A. That is right. Of all the units. [1052]

Wednesday, June 19, 1940.

Met, pursuant to adjournment at 9:30 o'clock A. M. [1057]

Mr. Mouritsen: Mr. Examiner, we have a number of stipulations which we have discussed, and which we desire to offer.

Mr. Binford and Mr. Comorre, for the purposes of this proceeding, that is, Stockholders Publishing Co., Inc., XXI-R-927, will it be stipulated that the following terms in the second amended petition, Los Angeles Newsboys Local Industrial Union No.

75, C. I. O., shall be deemed to be the Union's intended meanings—— [1059]

Mr. Mouritsen: Thank you, Mr. Hall. And that second amended petition is Board's Exhibit 1-Y in evidence:

The term "full time newsboy" means (1) an individual who sells to the general public the Five, Six, Eight, Nine and Ten Star, or the Six, Eight, Nine and Ten Star editions of the News five or more days a week; and (2) an individual who sells the Four Star edition, or previous editions, of the News for a minimum of four hours per day between the hours of 4:00 a. m. and 10:00 a. m. five or more days a week and does not include check men, bootjackers, temporary, casual or part time newsboys as herein defined;

(3) The term "bootjacker" is an individual who purchases newspapers for sale other than at an established corner, or other established place of sale;

(4) The term "part time newsboy" means (a) an individual who sells to the general public fewer than the Six, Eight, Nine and Ten Star editions per day, and (b) an individual who sells the Four Star edition of the News less than four hours per day, and does not include check men, full time newsboys, bootjackers, temporary or casual newsboys as herein defined;

(5) The term "check man" shall be deemed to be synonymous with the term "wholesalers" and shall be deemed to be covered by the evidence in this proceeding to date;

(6) The terms "temporary newsboy" and "casual newsboys" shall be deemed to have their ordinary and common significance. [1060]

It is further stipulated that this stipulation is intended to be merely for the purpose of defining terms and is not intended to be a recognition by Stockholders Publishing Company, Inc., that the classes of individuals defined herein, or any of them, constitute proper bargaining units or any unit.

Mr. L. B. Binford: Do I understand, Mr. Mouritsen, that you are offering that as a stipulation?

Mr. Mouritsen: Yes. That is offered as a stipulation.

Mr. L. B. Binford: The stipulation is accepted by the Stockholders Publishing Company.

Mr. Comorre: By the Newsboys Union.

Mr. Cosgrove: The stipulation has no application to the Times-Mirror case, has it, Mr. Mouritsen?

Mr. Mouritsen: It has no application.

Mr. Hall: You stipulate, do you, Mr. Mouritsen, that the stipulation just read into the record by yourself and acceded to by Mr. Binford has no application to the Los Angeles Examiner?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: And the same is true as to the Los Angeles Evening Herald and Express, Mr. Mouritsen?

Mr. Mouritsen: Yes, that may be so stipulated.

Mr. L. B. Binford: At a hearing of this meeting on the 14th day of June, 1940, at the morning

session, Mr. Patrick [1061] Comorre was called to the stand by the Board, and his testimony is reported commencing at page 583, line 5, and continuing to and including page 590 of the transcript. On page 590 the following appears:

"Mr. Cosgrove: May we have a stipulation to the effect that the testimony given by the witness Comorre since he was recalled to the stand yesterday afternoon late, and including his testimony this morning, is not intended to apply to the Los Angeles Times?

"Mr. Mouritsen: It may be so stipulated, and also with reference to the Examiner.

"Mr. L. B. Binford: And the Herald and Express—I mean the News?

"Mr. Mouritsen: Yes."

Mr. Binford now relieves the Board from that stipulation in so far as the Stockholders Publishing Company is concerned, with the understanding, nevertheless, that no stipulations made between counsel in that portion of the record to which Stockholders Publishing Company was not a part shall be deemed to be binding upon Stockholders Publishing Company.

Mr. Mouritsen: And may I state that the purpose of my request to be relieved of that stipulation was merely that that evidence which permitted to the appropriate unit claimed would not have to be repeated with reference to the News. [1062]

Mr. L. B. Binford: We wish to offer the following stipulation to counsel for the Board and to Mr. Comorre:

In answering—this is explanatory of the stipulation—in answering the questions of the Board's attorney yesterday morning, Mr. Dutton O'Brien, Circulation Manager of the News, overlooked one point which was brought to his attention first by the testimony of one of the Board's witnesses, and later in a conversation during one of the recesses yesterday afternoon, and we offer a stipulation that, if recalled, Mr. O'Brien would testify as follows:

That when he stated in response to a question of Mr. Mouritsen, appearing at page 965, line 2, of the transcript, which question is as follows: "Q. Now, Mr. O'Brien, will you explain how the first four editions of the News are circulated so far as street sales are concerned, and also confine that, please, to circulation within the City of Los Angeles," he answered "A. The only edition of the first four which reaches the city streets is the fourth edition, the Four Star."

Mr. O'Brien should have added thereto the following [1063] exception, and he would so testify if called: Lew Law, a morning district man, as a voluntary practice, obtains 175 copies of the One Star edition of the News for a newsboy who sells at Fifth and Wall; 65 copies of the One Star edition and 70 copies of the Three Star edition for a newsboy who sells at 7th and Broadway; and 175 copies of the Three Star edition for a newsboy who sells at 7th and Central. The newsboys call at the office for these copies, except the 70 copies of the Three Star edition for the newsboy at 7th and Broadway. They are delivered by a News truck. All copies, how-

ever, are charged to the account of Mr. Lew Law, who in turn makes his collections from the newsboys. At the request of the district men, 50 copies of the Two Star edition are sent to a newsboy at the corner of 41st and Central, and 10 copies of the Three Star edition are sent to a newsboy at the corner of Sunset and Vine. In these cases also the papers are charged to the district men who make their collections from the newsboys. Except for these cases, the three district men involved, as well as all other morning district men, receive only the Four Star edition.

Will it be stipulated, Mr. Mouritsen and Mr. Comorre, that if Mr. Dutton O'Brien were recalled to the stand he would modify his answer to the question quoted above by adding that portion I have just dictated into the record?

Mr. Mouritsen: It may be so stipulated. [1064]

Mr. Comorre: It may be so stipulated by the Union. [1065]

Mr. Mouritsen: I offer as Board's Exhibit No. 10 an agreed statement of facts relative to the operation of the Stockholders Publishing Company, Inc., in so far as it bears upon the Board's jurisdiction over the operations of that Company.

Trial Examiner Kennedy: Is there any objection? [1066]

Mr. L. B. Binford: That stipulation has been entered into by us.

Trial Examiner Kennedy: Received in evidence.

(Thereupon, the document above referred to

was received in evidence and marked as Board's Exhibit No. 10.)

Mr. Cosgrove: It has no application to the Los Angeles Times case, has it; Mr. Mouritsen?

Mr. Mouritsen: No. That may be so stipulated.

Mr. Hall: And the same stipulation may be made with respect to the Los Angeles Examiner?

Mr. Mouritsen: So stipulated.

Mr. Compton: The same stipulation may be made with reference to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So stipulated. [1067]

GEORGE E. HUTCHINSON

called as a witness by and on behalf of the Evening Herald and Express, one of the Respondents, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Compton): What is your address, Mr. Hutchinson? A. 1279 Third Avenue.

Q. What is your occupation?

A. District manager of the Herald and Express.

Q. What district are you district manager in?

A. The district running from Grand Avenue to Western, and from Pico to Adams.

Q. Is there a vendor selling papers in that district by the name of Apice—James V. Apice?

(Testimony of George E. Hutchinson.)

A. There is. [1070]

Q. (By Mr. Compton): Mr. Hutchinson, on Tuesday, June 18, 1940, Mr. Apice testified concerning an alleged removal of himself from his corner. His testimony in that respect is reported in the reporter's transcript of testimony and proceedings, Volume 8, beginning at Page 1023, line 4. Do you remember at any time any incident in respect to the removal of Mr. Apice? A. I do.

Q. And was he removed?

A. Temporarily.

Q. Did you remove him? A. Yes, I did.

Q. Will you please relate the circumstances thereof?

A. I came into the office there one day and found that there had been a report brought in there that he had made improper advances and attempted to molest a juvenile of the opposite sex. The person who had brought in the report and who threatened practically to take the law in his own hands was the girl's father. He said there was considerable feeling in that particular—around that particular neighborhood and corner over it, and there was likely to be some trouble over it; that he wanted to handle it legally. And just about that time, we had had the rape and murder of these two little [1071] girls in Inglewood, and the city was more or less stirred up along those lines. Therefore I went out to the corner and I told Jimmy that he had best be taken off for the time being until we found out

(Testimony of George E. Hutchinson.)

what it was all about; that naturally we didn't want him to wholesale our papers or to sell our papers if he was guilty of such a thing, and that for his own self protection, it would be very poor policy for him to even hang around the corner for a few days.

Q. Did you investigate the story?

A. I did.

Q. And you were not able to find anything that substantiated it?

A. Not anything that substantiated it.

Q. As soon as you made that investigation, did you tell Mr. Apice to go back on his corner?

A. I did.

Q. Has he been there ever since?

A. He has been there ever since.

Q. And he is a very satisfactory salesman, is he?

A. He is, very; yes, sir. [1072]

Q. (By Mr. Compton) Are you a member of any newspaper organization?

A. Well, sir, I am with the Newspaper Guild.

Q. That is affiliated with the C. I. O.?

A. Yes, sir.

Mr. Cosgrove: May it be stipulated that the testimony of the witness George E. Hutchinson has no application to the Los Angeles Times case?

Mr. Mouritsen: It will be so stipulated.

Mr. Hall: Will the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated. [1073]

PATRICK COMORRE

recalled to the stand by and on behalf of the National Labor Relations Board, having been previously duly sworn, was further examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): Mr. Comorre, with reference to the newsboys who handle the News, the Four Star edition of the News, have you made an investigation or have you had an investigation made respecting their work, their hours and the nature of their operations?

A. I have. [1074]

Q. And who assisted you in the investigation?

A. Well, Mr. Eley and Mr. Louie Schwartz.

Q. And did you ascertain anything with reference to the number of newsboys who handle the News in the morning? A. I have.

Q. I will ask you if you have ascertained anything with reference to the full-time newsboys who handle the News in the morning?

A. I have.

Q. Will you please state what the approximate number of such full-time newsboys in the morning is?

A. Well, about 114, 110 or something in there—about 114, I should say, something like that; that is, that sell the News. [1075]

Mr. Cosgrove: Will it be stipulated, Mr. Mouritsen, that the testimony given this morning by Mr.

Patrick Comorre is not applicable to the Los Angeles Times' case?

Mr. Mouritsen: It may be so stipulated.

Mr. Hall: Will the same stipulation be made with reference to the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated.

Mr. Compton: And the same stipulation with reference to the Los Angeles Evening Herald and Express, Mr. Mouritsen?

Mr. Mouritsen: It may be so stipulated. [1077]

Trial Examiner Kennedy: You will be ready to go ahead with the Times' case after recess; is that right? You have your witnesses?

Mr. Mouritsen: Yes. [1079]

Mr. Mouritsen: Doctor Cosgrove, have you been able to compile a list of names of the newsboys which I asked for some time ago?

Mr. Cosgrove: Following your request, we took the matter up with the administrative heads of the Times-Mirror Company and were advised that they had no list anywhere and never had any lists of hustlers or newsboys, and at our direction they then called in all of their district men and advised the district men to make a list and ascertain the name of every newsboy in their district; that that was done, and we have arranged them in alphabetical order, and we will have a list here within the next day prepared for that purpose pursuant to your request, which shows the name of every hustler according to the district where he sells papers, and shows the corner—that is, the intersection—where

he sells papers and also shows which of these newspaper boys are what you have been calling check men. The list shows that the [1080] Times has one newspaper boy who receives the check. He receives the check for coming to the Los Angeles Times Building about 1:00 o'clock in the morning and staying there until about 4:00 o'clock, during which time he counts newspapers that have been returned; and for that he is paid. Using the term that has been used by the Board, we classify him as a check man. He is the only man who sells newspapers that receives a check. That list will be ready, I think, perhaps late today or, I am sure, the first thing in the morning.

Mr. Mouritsen: Thank you very kindly, Doctor. Mr. Marx, please.

RAYMOND F. MARX

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): Where do you reside, Mr. Marx? A. 1616 Angelus Avenue.

Q. In the City of Los Angeles?

A. Los Angeles.

Q. What is your business or occupation?

A. Circulation Manager of the Los Angeles Times.

(Testimony of Raymond F. Marx.)

Q. How long have you held that position?

A. Since July, 1934. [1081]

Q. In your position as circulation manager, are you acquainted with the operations so far as circulation is concerned of the Times-Mirror Company?

A. Yes.

Q. Will you please state whether or not the Times-Mirror Company is engaged in the business of circulating copies of the Times that it publishes?

A. If the Times Publishing Company is, you say?

Q. Engaged in circulating the copies of the Los Angeles Times which it publishes? A. Yes.

Q. And by what means does it engage in the circulation of the copies of the Los Angeles Times?

A. Well, we have what is known as the home delivery organization, and the street sale organization.

Q. And the street sale organization is part of the circulation system of the Times-Mirror Company; is that correct? A. Yes, sir. [1082]

Q. The street sales, copies of newspapers, are circulated through newsboys; is that correct?

A. Yes, sir.

Trial Examiner Kennedy: Does the petition intend to include this home delivery service?

Mr. Mouritsen: No, Mr. Examiner. It has to do only with newsboys.

Q. And, Mr. Marx, the home delivery department you mentioned does not circulate papers through newsboys; is that correct?

(Testimony of Raymond F. Marx.)

A. No, sir.

Q. Will you explain the set-up of the organization whereby you circulate your papers through streets sales?

A. The street sale organization is under the supervision of Mr. Jerry Cohen, who in turn supervises the sales of the salesmen.

Q. And how is the street circulation conducted within the cities of Los Angeles and Glendale, California?

A. In Glendale, California, they are circulated there in the same manner.

Q. As they are in the City of Los Angeles?

A. Yes, sir.

Q. Now, Mr. Marx, would you explain your street sales set-up with more particularity, directing your attention to the night—what might be termed the night men and the morning [1083] men?

A. The night men are the organization selling newspapers at night, and the morning men sell in the morning.

Q. And can you state approximately the relationship between your night organization and the morning organization with reference to the numbers or the amounts of the street sales at night, and the number in the morning?

A. You mean the number of sales?

Q. Yes.

A. Well, I would say that they were far greater at night than they were in the morning.

(Testimony of Raymond F. Marx.)

Q. Well, can you give us some idea of the approximate relationship between night and morning?

A. Probably ten to one. [1084]

Cross Examination

Q. (By Mr. Cosgrove): Mr. Marx, do you know whether or not the Los Angeles Times up to say thirty days ago had in its records a list of newsboys that purchased and sold the Los Angeles Times?

A. Prior to thirty days ago?

Q. Yes.

A. No, I do not think we had any list.

Q. Now, do you know whether we, that is, counsel for the Los Angeles Times, took up with you and Mr. Nathan the matter of having a list made?

A. Yes, sir.

Q. And about when was that?

A. I would say around the end of May. [1085]

Q. Of this year? A. Yes, sir.

Q. Now, was it the wish, the expressed wish of your attorneys that such a list be prepared?

A. Yes.

Q. And did the organization agree to prepare it?

A. They did.

Q. And did they undertake to prepare it?

A. Yes, sir.

Q. And under whose direction?

A. Under Mr. Jerry Cohen's direction.

Q. And what was the method employed?

A. I believe district managers obtained the

(Testimony of Raymond F. Marx.)

names of all hustlers and the corners on which they sold.

Q. And those in turn were turned over to you or turned over to the attorneys, or what became of the list?

A. They were turned over to our attorneys. [1086]

JULIUS J. COHEN

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): Where do you live?

A. 3512 Crestmont Avenue, Los Angeles.

Q. What is your business or occupation?

A. I am supervisor of street sales for the Los Angeles Times.

Q. How long have you held that position?

A. Since July, 1934.

Q. And what, briefly, are your duties in that position?

A. The delivery and promotion of sales—delivery of newspapers and promotion of sales.

Q. In what area?

A. At night—do you want the specified towns? [1090]

Q. Yes, would you so specify?

(Testimony of Julius J. Cohen.)

A. City of Los Angeles proper, Glendale, Burbank, Belvedere, South Pasadena, Beverly Hills, Westwood, Huntington Park. I think that's about all.

And do you want the morning, too?

Q. Yes. You can tell me the morning.

A. The morning boundaries are the so-called downtown district, bounded on the north by Temple Street, on the south by Pico, on the east by Central Avenue, on the west by Figueroa.

Q. Now, to assist you in your duties, do you have an organization at night? A. Yes, sir.

Q. Will you explain, please, what that organization is?

A. My night street sales organization is divided into twelve districts; these twelve districts are run, naturally, by twelve district men and six relief district men.

Q. And in what area do they operate, those twelve district men?

A. The area I mentioned as night street sales.

Q. And what do you call them—what is the term for those? A. District men.

Q. Are they night district men?

A. Night district men, yes.

Q. And how do you operate in the—do you have an organization to assist you in the morning?

[1091]

A. Yes, sir.

Q. Would you please tell us the extent and nature of that organization?

(Testimony of Julius J. Cohen.)

A. I have three morning district men.

Q. And are those the only two organizations under your supervision that have anything to do with street sales through newsboys in the cities of Los Angeles and Glendale, California?

A. Yes, sir.

Q. Will you tell us how and—well, these night district men and the morning district men are employees of the Times-Mirror Company, are they not? A. Yes, sir.

Q. Will you tell us how the night district men operate, giving the names of the editions that they handle and the approximate hour when they appear?

A. The hour of appearance is usually governed by press run.

Q. I see.

And what is that hour, generally?

A. On our daily the press starts at 6:00 P. M. Saturday for our street sales the press starts at 2:30 P. M. Sunday afternoon at the present time the press starts at 3:15 P. M.

Q. Will you explain what one of these night district men does on a normal weekday with reference to his distribution to newsboys? [1092]

A. Well, he comes down about 5:30, finds out what the headline will be, and if it is just an ordinary headline he knows just about what they sell on the district, so he will just leave his order alone. If it is an exceptionally good headline, he

(Testimony of Julius J. Cohen.)

will sometimes increase his order; sometimes double it—I have seen cases where they have trebled it; and if it is just a little bit better than the ordinary he might put on 150 papers on each district.

Q. What does he do after he obtains his papers?

A. After he obtains his papers, he takes them out to the various corners and gives them to the newsboys. There might be some newsboys come down for a free ride, that come along with him. Some newsboys are on the corner.

Q. After making that official coverage of his district, does he return to the plant?

A. He usually goes and eats. That takes about a half an hour, or 45 minutes, and he usually eats on his district, and on the way back to the plant he re-covers, to try and get an idea of how many he will need on the next edition that comes out at 9:00 o'clock. Ordinarily that is on week days.

Q. Describe what he does as a general rule after that time?

A. He gets his papers on our Three Star edition at 9:00 P. M., puts them out to all the newsboys, and he comes back, gets another edition called the "R" edition, at 11:30 P. M., puts those out, and on the way putting those out he checks in [1093] various corners, and then he stays out to the end of his district until about 1:00 o'clock, then he comes in and collects off the rest of the hustlers, and brings in what hustlers want to come in; and he checks in to the office at 1:30 and is out of there about 2:00 P. M. [1094]

(Testimony of Julius J. Cohen.)

Q. And the price of the Saturday paper is 10 cents a copy to the public, is that correct?

A. That is correct.

Mr. Cosgrove: Pardon the interruption.

By Saturday paper, you mean the Sunday paper that is put on the streets Saturday evening?

Mr. Mouritsen: Yes. Did you so understand it, Mr. Cohen?

The Witness: Yes, sir.

Q. (By Mr. Mouritsen): And the price of the regular weekday edition to the public is what?

A. Five cents.

Q. And what is the price of the regular weekly paper to the newsboys? A. At night?

A. At night. A. 1½ cents.

Q. What is the price of the Sunday editions issued on Saturday to the newsboys?

A. 6 cents.

Q. That is done throughout the area of Los Angeles and Glendale, California?

A. Yes, sir. [1095]

Q. The night district men operate, as a rule, between what hours? A. Daily?

Q. Daily, yes.

A. Between the hours of 6:00 P. M. to 2:00 A. M.

Q. And Saturday?

A. Between 2:30 P. M. and 2:30 A. M.

Q. And Sunday?

A. Between 3:00 P. M. and 2:00 P. M.—2:00 A. M., rather.

(Testimony of Julius J. Cohen.)

Q. And in between what hours—in general during what hours of the day do your morning district men operate?

A. 12:30 A. M. to 10:00 A. M.

Q. Will you please describe how a morning district man operates on a week day?

A. There are three distributing corners. One is Second and Spring, another one is Sixth and Main, and another one is Seventh and Grand. The morning district man comes down to the concourse or loading platform and gets part of his papers and goes to these corners. Newsboys are congregated at these corners, and he gets a few papers and goes to his corner, and [1097] then the district man goes back to the loading platform for our 6:30 edition, or 9:00 A. M. edition, and then he distributes them to these corners.

Q. Now, with reference to street sales and these morning district men, is there any change in their manner of operation on Saturdays or Sundays?

A. There might be a little change on Sundays. I think instead of Second and Spring, it is Second and Broadway on Sundays on one district, and instead of Seventh and Grand most of the papers are picked up at Sixth and Main Sunday morning.

Q. Now, these newsboys who receive papers at these various central points you have mentioned, where do they check in?

A. Some of them check in on that corner, and some come down to these various central points and check in.

(Testimony of Julius J. Cohen.)

Q. Now, do you have any other men assisting you in the circulation, so far as street sales are concerned?

A. Well, I have a man by the name of Stephen De Simoni who takes care of the office when I go out.

Mr. Cosgrove: I wonder if we might have the gentleman's name again?

The Witness: S-t-e-p-h-e-n D-e S-i-m-o-n-i.

Q. (By Mr. Mouritsen): And at what price are the newspapers furnished to the newsboys who receive papers from the morning district men? [1098]

A. Three cents.

Q. And at what price are they sold to the public? A. Five cents.

Q. That is the general practice among all morning men? A. Yes, sir.

Q. Now, from time to time during the period while you have been——

Mr. Cosgrove (Interrupting): Supervisor of street sales.

Q. (By Mr. Mouritsen) ——supervisor of street sales, Mr. Cohen, have you put newsboys on these various corners?

A. They have come in and asked for corners, and I have asked the district men if they ever have any corners open, if that is what you mean.

Q. And from time to time during the period that you have held the position that you now occupy, have you taken up various grievances with the newsboys? A. Yes, sir.

(Testimony of Julius J. Cohen.)

Q. Will you state what the nature of those grievances has been, just in general?

A. Well, there has been so many—if you will refresh my memory, I can remember.

Q. Well, that they have been taken off corners and come to you to obtain them back?

A. Well, there has been cases where newsboys drank a little too much, hasn't had enough money left to pay a district man for his papers, and naturally the district man don't want to do any business with him and they have come in to me and I [1099] have told the district man to give them another chance, if that is what you mean.

Q. Well, what are some of the other complaints that have been taken up with you individually by newsboys? You are acquainted with that better than I.

A. There has been a lot of them. I don't know. If you have got any cases and can refresh my memory, I might remember them.

Q. Well, any with reference to the price at which they received the papers?

A. Yes, sir.

Q. In reference to the fact that they weren't able to obtain sufficient copies of the paper?

A. Yes, sir.

Q. Or that they had been given too many copies of the paper? A. No, sir.

Q. With reference to the fact that they had been put off their corners for being off of them for too

(Testimony of Julius J. Cohen.)

long a period?

A. I don't remember any case like that.

Q. Or about any arrangement regarding their relief man? A. Yes, sir.

Q. That they desired to put a particular relief man on the place and couldn't do so?

A. I think we had one case like that.

Q. Or that they had been injured while selling the Times [1100] and wanted some help from you? A. Yes, sir.

Q. Now, on approximately how many occasions, Mr. Cohen, would you estimate that newsboys individually have taken up complaints with you during the last three years?

A. Well, I get an average of about four or five a week.

Trial Examiner Kennedy: You mean by that question the Newsboys Union, or the individuals?

Mr. Mouritsen: No, individuals.

Q. Did you so understand the question, Mr. Cohen? A. Yes.

Q. Now, Mr. Cohen——

A. (Interrupting): Pardon me.

May I add to that: Most of those complaints are newsboys that come and they want to know why they can't get a spot.

Q. Well, in addition to these individual complaints, have you from time to time met with representatives of the Newsboys Union?

A. Once.

(Testimony of Julius J. Cohen.)

Q. And with whom representing the Newsboys Union?

A. If I remember right, I think there was Pat Comorre, Art Page, Jimmy Deutsch. I think there was one more party present but I don't remember his name.

Q. And with reference to what particular matter did they [1101] confer with you?

A. Well, most of it was in regard to raise in rate to the newsboy.

Q. When did the raise in rate to the newsboys occur?

A. It was February 9, 1939, on the daily, and February 26, 1939, on the Sunday paper.

Q. Oh, was this the conference at which Mr. Marx and Mr. Adams were also present?

A. Yes, sir.

Q. Now, Mr. Cohen——

A. (Interrupting): Those dates are correct.

Q. (Continuing): ——does the Los Angeles Times from time to time furnish newsboys selling papers, paper racks?

A. Only when the newsboy requests it.

Q. But when the request is made, the Times furnishes them certain racks; is that correct?

[1102]

A. I have given them racks, or I have told them to pick out a rack.

Q. And those are furnished by the Times; is that correct? A. Yes; oh, yes.

(Testimony of Julius J. Cohen.)

Mr. Mouritsen: May this be marked for identification Board's Exhibit next in order?

(Thereupon, the document above referred to was marked as Board's Exhibit No. 12 for identification.)

Q. (By Mr. Mouritsen): Mr. Cohen, I will ask you if Board's Exhibit 12 for identification is a correct picturization of racks furnished by the Times to newsboys?

Mr. Mouritsen: Pardon me, Mr. Cosgrove.

Mr. Cosgrove: I have seen it. Thank you very much.

The Witness: This rack is furnished to the news stand delivery man, Mr. Mouritsen; it is not furnished to the newsboys. A newsboy probably uses it. It is on the corner.

Q. (By Mr. Mouritsen): Who puts it on the corner? A. The news stand delivery man.

Q. That is a Times' employee, isn't it?

A. Yes, sir.

Mr. Mouritsen: I will offer that as Board's Exhibit Number 12. [1103].

Trial Examiner Kennedy: Received.

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit No. 12.)

NATIONAL LABOR RELATIONS BOARD

XXI-R-

CASE NO. 927, etc.

EXHIBIT NO. 12

Stockholders Publishing Co.

6-19-40

Cohen

OFFICIAL REPORTER

Frazier

(Testimony of Julius J. Cohen.)

Mr. Mouritsen: May this document be marked Board's Exhibit next in order?

(Thereupon, the document above referred to was marked as Board's Exhibit No. 13 for identification.)

Mr. Mouritsen: I believe you have seen this also, Mr. Cosgrove?

Mr. Cosgrove: Yes. Thank you kindly.

Q. (By Mr. Mouritsen): Mr. Cohen, from time to time during the period you have occupied the position you now hold with the Times, have you furnished to the newsboys change aprons?

A. Yes, sir.

Q. That is, for use in their operations of selling Times; is that correct? A. Yes, sir.

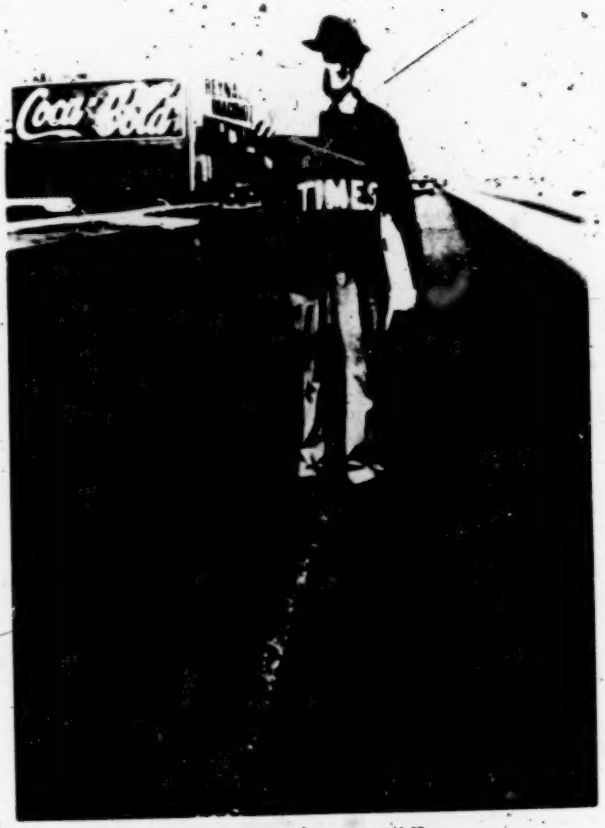
Q. I show you a document marked Board's Exhibit 13 for identification, and ask you if that is a correct picturization of the change aprons furnished to the newsboys? A. Yes, sir.

Mr. Mouritsen: I will offer that, Mr. Examiner, as Board's Exhibit No. 13.

Mr. Cosgrove: No objection.

Trial Examiner Kennedy: Received. [1104]

(Thereupon, the document above referred to was received in evidence and marked as Board's Exhibit No. 13.)



NATIONAL LABOR RELATIONS BOARD

XXI-A-

CASE NO. 92 Date

EXHIBIT NO. 13

Stromberg-Carlson Publishing Co.

Cohen

DA 6-19-40

DANIEL W.

Frazier

(Testimony of Julius J. Cohen.)

Trial Examiner Kennedy: We will be in recess until 1:45. Be back here at that time, Mr. Witness.

(Thereupon, at 12:05 p. m., a recess was taken until 1:45 o'clock p. m. of the same date.) [1105]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:45 o'clock p. m.)

Trial Examiner Kennedy: The hearing will be in session. We had a witness on the stand, I believe.

JULIUS J. COHEN

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and further testified as follows:

Direct Examination

(Continued)

Mr. Mouritsen: Mr. Reporter, do you have the last few questions and answers?

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Mouritsen): Mr. Cohen, I believe you testified this morning that the morning papers are furnished to the newsboys at 3 cents a copy; is that correct? A. Yes, sir.

(Testimony of Julius J. Cohen.)

Q. Is that 3 or 3½ cents a copy?

A. 3 cents.

Q. Now, with reference to these night district men, I believe you said that there were 12 of them?

A. There is 12 districts, but there is about 20 district men.

Q. Can you tell us briefly what area those 12 districts [1106] involve?

A. Well, as I stated before, it is Los Angeles proper, Glendale, Burbank, Beverly Hills, Westwood, Huntington Park, Belvedere, and South Pasadena. I think that is all.

Q. Now, under your supervision do you have certain employees whose duty it is to transport newsboys from the concourse or loading platform to their spots?

A. By that do you mean the district men or the machines we hire to take out excess——

Q. Will you explain what district men do in that regard?

A. They take out the papers, and whichever newsboys come down to the concourse for a free ride.

Q. Now what, if any, machines do you hire for that purpose?

A. We have about 12 machines that we hire. We pay from 75 cents a night and up for gasoline money. Newsboys own those machines.

Q. And their only purpose is to transport newsboys to their spots from the Times loading platform or concourse?

(Testimony of Julius J. Cohen.)

A. That is right; and their newspapers, of course.

Q. And how many such employees are there under your supervision?

A. They are not employees, if you mean by being on the payroll.

Q. I see. Well, how many are there? [1107]

A. 12.

Q. And do you know approximately how many newsboys they transport to their spots, as a general rule?

A. Oh, an average of four or five including themselves. I will say above five including themselves, or six.

Q. That will be on a general average about 60 these men would transport, including themselves?

A. That is right.

Mr. Mouritsen: I think that is all.

Cross Examination

Q. (By Mr. Yoakum): You stated that the night area consisted of Los Angeles, Glendale, Burbank, Belvedere, South Pasadena, Beverly Hills, Westwood and Huntington Park. Does it include Alhambra?

A. No, sir. That is not under my supervision.

Q. With reference to the racks that you mentioned in your testimony of this morning, are those racks furnished to hustlers?

A. On their request, if we have them.

Q. Do you have them at present?

(Testimony of Julius J. Cohen.)

A. No.

Q. How long has it been since you have had any of these racks?

A. I think it has been about six weeks or two months. Usually when the news dealers' racks break up and we have [1108] a few that have to be repaired, they bring them down to the concourse and a newsboy might see a rack and he will say, "Can I take one to my corner?" and we say, "Go ahead and take one."

Q. You said when the news dealers' racks break up. Are these racks for news dealers or for hustlers?

A. Yes, they are for news dealers.

Q. What do you mean by a news dealer?

A. A drug store, cigar stand, confectionery store, any man that runs—that wants to use newspapers as a sideline on his property line.

Q. And it was to service the persons of that classification that the racks were originally acquired by the paper? A. Yes, sir.

Q. Was there any requirement that the hustlers use these racks? A. No, sir.

Q. How does a hustler acquire a change apron?

A. Well, I have got about 25 or 30 hustlers now that have come in, in the last month or so, and asked me for change aprons; but usually I order about 500 or 1000 aprons. When I get them in, I divide them up amongst the district men and they give them to their hustlers.

(Testimony of Julius J. Cohen.)

Q. Do you know whether the district men tell the hustlers to use the aprons? [1109]

Mr. Mouritsen: I object to that as calling for hearsay; something beyond his knowledge.

Trial Examiner Kennedy: I couldn't hear you.

Mr. Mouritsen: I object to that as calling for hearsay; something beyond this witness' knowledge.

Trial Examiner Kennedy: Sustained.

Mr. Yoakum: I asked him if he knew whether the——

Trial Examiner Kennedy: Well, you may answer that yes or no.

The Witness: No.

Mr. Yoakum: Will you read that question, please?

(The question referred to was read by the reporter, as set forth above.)

Q. (By Mr. Yoakum): You mean by your answer that you do not know whether they tell them to use the aprons? A. I do not know.

Q. You do not know. Is there any requirement by the management that the hustler use an apron?

A. No, sir.

Q. Do all hustlers use the aprons?

A. No, sir.

Q. What hustlers use the aprons?

A. Those that want to, to save their clothes. There are some hustlers like to slough off a paper once in a while and they don't want to wear an apron; they don't want to designate [1110] themselves as

(Testimony of Julius J. Cohen.)

a Times newsboy. I have seen some hustlers cut the word "Times" off the apron and just use the change pockets.

Mr. Mouritsen: I move to strike that out as a voluntary statement.

Trial Examiner Kennedy: It may remain.

Mr. Yoakum: Did the Examiner say that might remain?

Trial Examiner Kennedy: Yes, it may remain in.

Q. (By Mr. Yoakum): In your enumeration of what Mr. Mouritsen has designated as beefs or grievances, you stated the newsboys would inquire of you why they could not get a spot?

A. Yes, sir.

Q. What did you mean by that term, "can't get a spot"?

A. Well, there is usually from 20 to 25 extra newsboys around the concourse where all these newsboys congregate and they stick around from 5:00 or 6:00 o'clock and some newsboy does not show up—usually they will know about it or they will come up to a district man and ask him for the spot and he will say, "Well, we have got so-and-so open; it sells about 25 or 30. Do you want to try it?" And he will take it. But in the meantime, everybody sticks to their corners, especially during good war news they don't want to take any days off, so there is no spots open.

Q. Will you state for the record, if you please, what you [1111] mean by the term "concourse"?

(Testimony of Julius J. Cohen.)

A. That is the ramp where all the trucks are and where the newspapers come down from the mail room.

Q. That is located in the Times Building at First and Spring?

A. Yes, sir; on the Spring Street side.

Q. That is where many, or perhaps all of the night district men receive their papers?

A. All of them.

Q. Do you know whether your night street sales are circulated in the areas which you have heretofore enumerated in the same fashion as they are distributed in the city of Los Angeles and Glendale?

A. I don't understand the question.

Q. If you do not understand, I will try to clarify it.

Were you in the court room this morning when Mr. Marx, circulation manager, testified?

A. Yes, sir.

Q. Do you recall he testified that the street circulation in the city of Los Angeles was the same as the method employed in the city of Glendale?

A. Yes, sir.

Q. I ask you if the same method is employed with reference to the night street circulation in the city of Beverly Hills. [1112]

A. Yes, sir.

Q. Is that the same method employed in Burbank? A. Yes, sir.

Q. In Belvedere? A. Yes, sir.

(Testimony of Julius J. Cohen.)

Q. In South Pasadena? A. Yes, sir.

Q. In Westwood? A. Yes, sir.

Q. In Huntington Park? A. Yes, sir.

Q. You mentioned in this morning's testimony that a hustler on one occasion had complained to you that he was not allowed to select his relief men. Do you recall that testimony? A. Yes, sir.

Q. Can you recall the approximate time when that complaint was made?

A. I am not sure, but it seems to me it was about two or three months ago.

Q. Do you recall the name of the hustler?

A. This particular hustler's name was Eban Chelton.

Q. How is the first name spelled?

A. E-b-a-n. I think that is the way he spells it. Pardon me. I think I have his name here. Yes, that is correct.

Q. Did this discussion occur at the concourse? [1113]

A. No, it occured in the district man's—while I was on his corner.

Q. On Chelton's corner? A. Yes.

Q. Where was that?

A. Washington and Figueroa.

Q. Was anyone else present other than you and Eban Chelton?

A. No. There was Jack Shomaria.

Q. Who is he?

A. He is a Times district man.

Q. And that is all the persons present?

(Testimony of Julius J. Cohen.)

A. I think there was another—no, that is all the persons present.

Q. Now, you just state the discussion that took place at that time, telling us who said what.

A. Eban Chelton came up to the car and was telling Jack Shomaria that the relief man, a fellow by the name of Claude, had been hustling that night. This was Eban Chelton's night off and Claude had refused to sell one of Eban Chelton's customers a paper. I called Claude over and I asked Claude what was the trouble.

He says, "Well the customer didn't pay me the nickel; he usually paid Eban Chelton," and Eban Chelton in turn didn't give him the nickel, and that is what the controversy was. [1114]

And Eban Chelton said, "Well, I don't like him for relief man on the corner."

And so I says, "Have you got any better man"? He says, "I will get a man.".

I says, "Go ahead and get one if you can that will hold the corner up and do as well as you can," but he never did bring anybody around.

Q. He didn't mention any name of anybody that he wanted to have?

A. No. He said some Mexican kid—I don't know his name. [1115]

Mr. Hall: May it be stipulated, Mr. Mouritsen, that the testimony of Raymond F. Marx and Julius J. Cohen has no application to the Los Angeles Examiner case?

Mr. Mouritsen: That may be so stipulated.

Mr. Howard Binford: And as to the Stockholders case?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: And the Los Angeles Evening Herald and Express case? [1117]

Mr. Mouritsen: So stipulated.

JULIUS J. COHEN

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and further testified as follows:

Redirect Examination

Q. (By Mr. Mouritsen): Now, Mr. Cohen, in your description of these duties of these night district men, I believe you stated that they make their first coverage of the district and return to the plant at what time? A. About 8:30.

Q. Do they at that time return any copies of the first edition that they have taken around their district? A. No, sir.

Q. And I believe you stated that they place their orders for those papers when they first appear at the plant? A. Yes, sir. [1118]

Q. And that if it looks like a good news headline they take extras over their established order; is that right? A. Yes, sir.

Mr. Mouritsen: I think that is all.

THOMAS McKINNEY

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): Mr. McKinney, where do you live?

A. 411 Kirby Street, Los Angeles.

Q. What is your position or occupation?

A. District Manager, Los Angeles Times.

Q. Are you what is known as a night district manager?

A. Night district manager, yes.

Q. How long have you held that job?

A. Oh, 12 years.

Q. In what area do you operate?

A. From Los Angeles to Glendale and Burbank.

Q. Will you tell us briefly what your duties as night district man consist of?

A. Well, distribute the papers to the boys, checking them in nights, and running back to the office, back and forth.

Q. Approximately during what hours do you operate on a [1119] week night?

A. Oh, we get down to the office around 6:15 or so, to about 1:00 o'clock.

Trial Examiner Kennedy: You are referring to the witness as district man or district manager?

The Witness: District manager?

Trial Examiner Kennedy: Manager?

(Testimony of Thomas McKinney.)

The Witness: Yes.

Trial Examiner Kennedy: That is the way you put your question.

Mr. Mouritsen: Yes. I do not know what the customary designation is. I think it is interchangeable.

Mr. Yoakum: It is interchangeable.

Mr. Mouritsen: Whether it is district manager or district man.

Mr. Cosgrove: I observed the terms seemed *to synonymous,* and I asked, out of the court room, these gentlemen about it, and some of them prefer the term district man and some district manager; their duties are precisely the same. One and the same term, if the Examiner please, so far as I can learn.

Q. (By Mr. Mouritsen): Mr. McKinney, do you carry as a general practice, a number of newsboys from the concourse to spots within your district? A. I carry a few, yes. [1120]

Trial Examiner Kennedy: I can't hear you, Mr. McKinney.

The Witness: I carry a few, yes.

Q. (By Mr. Mouritsen): And approximately how many newsboys handle the Times within your district? A. 18. [1121]

Mr. Cosgrove: While we are waiting, I might ask one question, if permitted.

These boys that you pick up at the concourse when the first edition comes out and take them out

(Testimony of Thomas McKinney.)

to the places where they sell the papers, do they live in the immediate neighborhood of the places where they sell their papers?

The Witness: No, sir. No, sir. [1122]

ROY ELEY

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen): Mr. Eley, have you ever sold the Los Angeles Times? A. I have.

Q. And when did you first start to sell that? [1128]

A. When did I first start to sell it?

Q. Yes.

A. Some time in January of 1939.

Q. And where did you start to sell?

A. Where did I start to sell?

Q. Yes.

A. If my recollection doesn't refuse me, it was at Fletcher and San Fernando in Los Angeles.

Q. And from whom did you obtain that spot?

A. Tom McKinney.

Q. Did you have a conversation with Mr. McKinney at or about the time you obtained the spot?

A. I did.

Q. Where did you have such a conversation?

(Testimony of Roy Eley.)

A. At the concourse of the Times Building.

Q. And was anyone else present?

A. I believe there was a fellow there we called—I can't recall his name right now, a personal friend of mine, too,—another friend of mine was there, yes.

Q. You don't recall his name?

A. I don't recall his name right at the minute. I will think of it in a minute.

Q. Was anyone else there?

A. That is all.

Q. Will you state what you said to McKinney and what [1129] McKinney said to you?

A. Well, I explained to this friend of mine—I spoke to this friend of mine first, I can't recall his name, and he referred me to Tom McKinney as his district man; so then I went to Tom McKinney and asked him if he could use me, and on the recommendation of this friend of mine he said that he could.

Q. And then what did you do?

A. Well, I asked him where. He told me I could work this man's off-spot at Fletcher and San Fernando.

Q. Did you have any further conversation with him at that time?

A. Well, I naturally asked him where the spot was and how to get there, and he told me that—Dick was the boy's name—that I would take a bus on Los Angeles Street and go out to the spot with

(Testimony of Roy Eley.)

Dick, and he gave me a dime to go out there, and that I would follow Dick's instructions when I got there.

Q. And did you proceed to the spot after that time? A. I did.

Q. At that time did you—when you reached the spot did you have a conversation with Dick?

A. Yes.

Q. And where did that take place?

A. At Fletcher and San Fernando.

Q. Was anyone else present? [1130]

A. Not that I know of.

Q. Will you state what Dick said to you and what you said to him?

A. Well, at the time we stepped off of the bus, right on what is known as the off-spot, he told me that that would be where I worked, that that would be the corner where I worked, and that we would have to go across to the filling station where Tom would bring the papers, and we would get the papers there.

So we went over there, and when Tom got there with the papers, he told me—he counted out a certain number of papers, I have forgot the exact number, and he told me that there was one of those that was not to be charged to me, that I should leave it at the drug store in the market, and at the same time I should go up to the liquor store just above there, where there was a certain sale, and over to the little restaurant where there was an-

(Testimony of Roy Eley.)

other certain sale, and then come back to the corner to cover that corner, to work through the market, and get out on the traffic line, in the traffic.

Q. Did you have any further conversation with him at that time?

A. Well, one of the things I think he told me that I was to work until 11:00 o'clock.

Q. Do you recall anything further that he said at that time? [1131]

A. Not that I recall right now, no, sir.

Q. And did you sell until 11:00 o'clock?

A. I did.

Q. And what did you do then?

A. Well, at 11:00 o'clock it is customary—that market closes at 10:15, and at 11:00 o'clock, why, I come across the street and checked in to Dick. In the meantime, I had received supplementary orders of papers, and I checked in to him, paying him for what papers I had sold, and he told me that Tom would be there shortly on his way in after the midnight, and that he would take me in to the car line.

Q. Did McKinney take you in to the car line at that time?

A. He took me in to the Sunset car line and——

Q. Now, after that time how would you proceed to your spot where you sold there the first night?

A. Well, I would come down to the concourse ordinarily, and I would wait until Mr. McKinney got there, and notify him that I was going out to the spot, and I would then go down on Los Angeles

(Testimony of Roy Eley.)

Street and catch the bus, and would proceed to the spot. If I was short of money, which was quite customary, why, maybe I would have to get a dime off of Tom to go out with, and if I didn't, I used my own money, and when I checked in, why, I was reimbursed for that ten cents.

Q. Now, after you started to sell on that spot did [1132] Mr. McKinney ever say anything additional to you regarding the area in which you were to sell?

A. The area in which I was to sell? No: Not that I recall—oh, not while I was on the off-spot.

Q. Well, how long did you continue on the off-spot.

A. Well, I was on the off-spot for—oh, I don't know: Six weeks, or two months, something like that. Until Dick left, and then I took over the main spot.

Q. And from whom did you obtain the main spot? A. From Tom McKinney.

Q. And was someone else put on the off-spot?

A. Yes.

Q. Did you have any conversation with Mr. McKinney regarding the man he was putting on the off-spot?

A. Well, any more than he told me he was—that he——

Q. Wait a minute. The question is, Did you have a conversation?

A. Oh, yes.

(Testimony of Roy Eley.)

Q. Now, about when did you have this conversation?

A. Well, when I reported to the alley, Tom told me, "Here's a man to cover your off-spot, and take him out there with you and tell him what to do—tell him about the spot."

Q. Well, that conversation took place at the alley about six weeks or two months after you started——

A. After I first started to work. [1133]

Q. Now, did you ever have a conversation with McKinney after that time with reference to the area in which you were to sell? A. Yes.

Q. Where did that conversation occur?

A. Well, now, I would not be certain whether that conversation occurred at the concourse or out on the spot, or possibly in the car on our way out. It was occasionally that I rode out with Tom.

Q. Well, how long after this—after you became the main spot boy did this subsequent conversation take place?

A. How long after? Well, if I recall, it was in June or July.

Q. Of what year? A. Of 1939.

Q. And at the time of the conversation was anyone else present?

A. Not that I know of.

Q. Will you state what he said to you and what you said to him?

A. Well, if I may use a prelude, at the time

(Testimony of Roy Eley.)

there was a drive-in stand under construction, and this was shortly after it had opened, and he told me——

Q. Wait a minute. Where was the drive-in stand with reference to the main spot on which you operated? [1134]

A. Well, at Fletcher and San Fernando. It was right on the corner that I operated.

Q. All right, now continue.

A. And he told me to watch that new drive-in and to work around there amongst those cars, and hustle in there as much as I could.

Q. Did you do that?

A. I did until I was ordered out by Van de Kamp's manager.

Q. Now, how long did you remain on the main spot at—Was it Fletcher and San Fernando?

A. Yes.

Q. How long did you remain on that spot?

A. Well, if I recall it right, it must have been the first time I was taken off of that spot was approximately in June.

Q. Well, was it before or after this conversation you had with McKinney? A. Before.

Q. Regarding the drive-in?

A. Yes, it was before. Before this conversation, I was——

Q. That you were taken off?

A. Yes. I was taken off. I was off for a while and was finally put back.

(Testimony of Roy Eley.)

Q. Then this conversation regarding the drive-in occurred after you had been taken off the spot, and then brought back? [1135]

A. Yes, that is right.

Q. Now, what occurred in June, 1939, with reference to your being taken off that spot?

A. Well, I believe the boy that was on the—what they call the main spot at Broadway and Brand in Glendale had been taken off of that——

Q. Wait a minute. I am not asing you for what you believe happened; I mean what happened so far as you and any district manager of the Times was concerned.

A. Well, Mr. McKinney told me that if I wanted, I could have the spot in Burbank—what they call the main spot, that is, at Broadway and Brand.

Mr. Yoakum: In Burbank?

The Witness: In Burbank—in Glendale.

Q. (By Mr. Mouritsen): And did he then put you on the spot? A. He did.

Q. And about how long did you continue to operate, or did you operate on the spot in Glendale?

A. Well, if I remember right, about two or three weeks, something like that.

Mr. Yoakum: Is this Broadway and Brand?

The Witness: Broadway and Brand in Glendale.

Q. (By Mr. Mouritsen): While you were on the spot in Glendale, did you have any boys to whom you gave papers? A. No. [1136]

(Testimony of Roy Eley.)

Q. Did you check anyone in?

A. I check in two practically regularly.

Q. I see.

Now, did you have any conversation with Mr. McKinney regarding your checking these men in?

A. Well, nothing more than that he told me that they would come down to check in to me.

Q. Well, about when did you have that——

A. When I first went on that spot.

Q. And after he talked to you about it, did you check them in? A. I did.

Q. And what did you do with the money you checked in?

A. Turned it over to Mr. McKinney.

Q. Did you also check in the unsold copies of the newspapers? A. I did.

Q. And what did you do with them?

A. I turned those back to Mr. McKinney.

Q. At the spot in Glendale were there any racks near that spot? A. One.

Q. And where was it with reference to——

A. On that corner.

Q. Did you ever have a conversation with Mr. McKinney [1137] regarding the rack?

A. Yes.

Q. And about when did that conversation occur?

A. When I first went there.

Q. Where did it take place?

A. Well, just where—whether it was in the concourse or whether in Glendale, I don't just recall.

(Testimony of Roy Eley.)

Q. Well, was anyone else present?

A. Not that I know of.

Q. Will you state what he said to you and what you said to him?

A. Well, the only thing I think he said to me was there was a rack there and I should see that I kept papers in it for display.

Q. And did you keep papers in it for display after that time? A. I did.

Q. During the time while you were on those two spots, did Mr. McKinney ever give you any advertising matter? A. He did.

Q. Did he give you any advertising placards?

A. He did.

Q. On how many different occasions?

A. Well, I couldn't say. I might say practically every Saturday. There was sometimes on Saturdays they wouldn't, [1138] but practically every Saturday.

Q. And did he ever say anything to you about those placards?

A. Yes. He told me to post them.

Q. And did you post them? A. I did.

Q. Did he ever give you any—did you ever have any conversation with him regarding any parts of the paper?

A. Regarding any parts of the paper?

Q. Regarding the rotogravure section of the paper.

A. Oh, one time in particular, I believe, yes.

(Testimony of Roy Eley.)

Q. About when did that occur?

A. Well, that was about the time that war was declared—I believe, the following Saturday. [1139]

Q. And what did Mr. McKinney say to you and what did you say to Mr. McKinney?

A. Well, at that time, on that edition they had a special map, a special war map of Europe in the rotogravure section, and we were given part of that section with this map and were told to tack it up on the post, or something like that, for display. [1140]

Q. Is that what Mr. McKinney said to you?

A. Yes.

Q. And after that time did you *take* that up on the pole? A. Yes.

Q. (By Mr. Mouritsen): Now, Mr. Eley, after you went back to selling on San Fernando and Fletcher, was the off-spot boy ever taken off that spot? A. He was.

Q. And at the time when the off-spot boy was taken off the spot, did you have any conversation with McKinney? A. I did. [1141]

Q. Will you state what Mr. McKinney said to you and what you said to Mr. McKinney?

A. Well, he told me that he didn't have anybody for the off-spot for that night and I should take it myself, and that if possible I should give the Times—some of the Times to the hustler over there, the off-spot hustler for the Examiner, and that if I did give him any of the papers, to not give them to him at the regular wholesale price, but to charge him three cents for them.

(Testimony of Roy Eley.)

Q. After that time did you take care of the off-spot? A. I did.

Q. And how did you take care of it?

A. Well, in the majority of instances I would give the Times to the Examiner hustler, but they changed hustlers out there quite often on the Examiner, and sometimes I would have a little argument with them, and then I would simply lay them down on a big concrete thing they had in there as a base for a light.

Q. Now, I believe you stated that while you were on the spot in Glendale that McKinney told you to keep papers in a [1142] rack there; is that correct?

A. Yes.

Q. And I will show you Board's Exhibit 12 and ask you if the rack was similar to the rack there set out. A. It is very similar.

Cross Examination

Q. (By Mr. Yoakum): Do you hold any office in the Newsboys C. I. O. Union?

A. At the present time, you mean?

Q. Yes. A. No office; no.

Q. Do you have any position?

A. I am chairman of a designated Labor Board Committee.

Q. You have been in attendance at this hearing, this consolidated hearing, continuously since it commenced? A. I have.

Q. You have been sitting at the counsel table with Frank Mouritsen, counsel for the Board?

(Testimony of Roy Eley.)

A. I have.

Q. And consulting with him on different matters? A. I have.

Q. And consulting with Pat Comorre?

A. I have.

Q. Did you ever hold office in this Newsboys Union? [1143] A. Temporarily.

Q. And you now hold no office?

A. No office.

Q. But you are chairman of some committee?

A. I am.

Q. What committee?

A. Well, I believe we designated it as the Labor Board Committee. [1144]

Q. What are your duties as chairman of the Labor Board Committee?

A. Well, if I might state, the Labor Board Committee was set up to look out for the interests of the newsboys during this hearing, and as all committees, they naturally elect a chairman, and I was made chairman of that committee.

Q. And as such what were your duties?

A. Well, I believe they are apparent; sitting mostly at the table with the counsel, as I might say, in an advisory capacity.

Q. Did you have any duties prior to the commencement of the hearing?

A. Yes, I had some duties in regard to getting authorization cards from the different members and preparing the case in general; that is, as an assistant to the counsel for the Board. [1146]

(Testimony of Roy Eley.)

Q. Had you been a hustler prior to this date in 1939 when you stated you started hustling for the Times sheets?

A. I would say, as I understand the term, for approximately 40 years.

Q. But you never sold the Times paper until 1939? A. That is right.

Q. Do you have any idea of how many papers you would sell during the course of an evening?

A. To the best of my knowledge and belief, I believe it has varied from one night, from fourteen up to as high as a hundred and fifty. [1148]

Q. Do you ever lose any papers while you are selling them out there? A. Naturally.

Q. Would you pay for those that you lost?

A. Absolu ely.

Q. Did you ever have any stolen?

A. Naturally.

Q. Did you have to pay for those?

A. I do.

Q. And what price did you pay for the papers?

A. That depends on what time you are speaking of.

Q. I am speaking from the time you first went on the corner at San Fernando and Fletcher.

A. At that time I paid one cent a copy for the dailies and five cents for the Sundays.

Q. On what date was that?

A. That was some time in January, 1939.

Q. And thereafter did you pay a different rate for the [1149] paper? A. I did.

(Testimony of Roy Eley.)

Q. When?

A. On February 9th, I believe it was, I stated.

Q. 1939? A. Yes.

Q. What price did you pay for the daily?

A. 3½ cents.

Q. 3½ cents?

A. Or 1½ cents, I should have said.

Q. What price did you usually sell it for?

A. Five.

Q. Did you pay 6 for the Sunday?

A. Did I pay 6?

Q. Yes. A. I did.

Q. And you would usually sell it for 10?

A. I did.

Q. What did you do with your unsold copies?

A. Turn them back to my district man.

Q. Would he give you full credit?

A. He would.

Q. How many papers did you usually get of the six o'clock?

A. I don't believe the question could be answered as to how many I usually got. If you would specify it by any [1150] particular date, possibly I could tell you. It varied.

Q. What was the variance?

A. Well, the variation was in this—I don't believe it has been stated to the Court—but it has been just recently that the papers started running at six o'clock. Prior to that time the papers run a little after five, and when they did run at a little

(Testimony of Roy Eley.)

after five, the first edition was not complete as to races. At that time it was customary for my district man, to the best of my knowledge, to cover his district and then go on to the airport in Burbank, pick up complete races there, and bring them back to us. So that at that time the ordinary amount of papers that he would give me on the first edition was around 15, but when the change was made so we got complete races on the first edition, naturally the order was increased to cover the amount of papers that he had gave me formerly on two deliveries.

Q. How was the order increased?

A. How was it increased?

Q. Yes.

A. It was automatically increased at that time because I was getting two editions in one.

Q. Did you ever ask that the order be increased?

A. No.

Q. Did you ever have your order increased at your [1151] request? A. At my request.

Q. Yes.

A. Well, not that I remember of. I don't think that I ever requested more papers than what were offered me.

Q. You never requested more, and had your request refused? A. No, sir.

Q. Now, what corner of the intersection were you selling when you first went out to San Fernando and Fletcher?

(Testimony of Roy Eley.)

A. That is on the corner where the market is.

Q. And you call that the off-spot corner?

A. The off-spot corner.

Q. Now, where did you sell? What was the territory that [1152] you covered?

A. You mean on the off-spot?

Q. Yes.

A. I sold on that corner through the market. I would make, oh, as many trips as I deemed desirable through the market, and out on the white line in traffic.

Q. When would you make your trips through the market?

A. Well, I generally used my own judgment on that in this respect. The customers for the market are driving in there constantly to make purchases, and I would try to gage that so that I could catch a complete change of prospective customers at each time.

Q. Did Mr. McKinney tell you when you should go into the market to solicit customers?

A. He told me to keep the market completely covered.

Q. Did he tell you when you were to be in there? [1153]

A. Do you mean the exact time?

Q. (By Mr. Yoakum): Do you understand the question? A. Not exactly.

Q. I will repeat it, then. Did he tell you at

(Testimony of Roy Eley.)

what times you should go to the market to solicit customers?

A. I could answer that yes or no, if I may.

Q. Well, can you answer it yes or no, or do you have to answer it both ways?

A. I would have to answer it both ways.

Q. Well, go ahead and answer it.

A. He told me to go in there and keep the market covered; that is, to make the market often enough so that it would be—anyone in there desiring a paper would be able to purchase it. He didn't specify any time by the clock.

Q. You had never sold at that corner before, had you? A. No, sir.

Q. When you say that Mr. McKinney told you to do this, don't you mean that he suggested to you that that would be a good spot to look after?

A. I believe that I understand the English language.

Q. Can you answer that question?

A. He did not suggest; he told me.

Q. But just what did he say?

A. As I stated before, he told me to see that that market [1154] was covered, to cover that market. In other words, in the slang phrase of the newsboys, to hustle in that market.

Q. Wanted you to hustle in that area?

A. That is the idea.

(Testimony of Roy Eley.)

Q. And you also hustled on what you called the traffic lane? A. Yes, the white line.

Q. The whit line on San Fernando?

A. Yes.

Q. When did you hustle in that spot?

A. Well, ordinarily the traffic is heavy there from the time we first started up until, say, around 9:00 o'clock or 9:30, and at that time, why, I would expend more energies in the traffic line than I would later.

Q. When the customers were there?

A. Naturally. [1155]

Q. (By Mr. Yoakum): Now, are there any other spots that you covered when you were on this so-called off-spot corner, the market corner?

A. Well, I wouldn't exactly call them spots. There was two places I stated before; one, a liquor store that I took a paper and sold, and one a restaurant where I took a paper and sold, which was across the street behind the filling station.

Q. Did you make a profit on those sales?

A. Naturally.

Q. Did you want to go there?

A. Naturally.

Q. Are those the places that you referred to in your testimony as the places that Mr. McKinney told you you must take the papers?

A. That is right.

Q. And you continued to take them there?

A. Naturally.

(Testimony of Roy Eley.)

Q. I suppose he told you to go there?

A. Naturally.

Q. He didn't say you had a customer?

A. He told me to take a paper over there, that I would make a sale. [1156]

Q. (By Mr. Yoakum) Do you have any regular customers out there? Did you have any or didn't you stay there long enough?

A. None I made deliveries to, no.

Q. Did you have any regular people that would come by and buy?

A. Well, I had people that would come night after night for a while, yes. You could call them regular customers, perhaps.

Q. Did they always pay you?

A. Naturally.

Q. Every night? A. Every night.

Q. You never trusted them for anything, did you?

A. No, sir. I am 40 years a hustler.

Q. Did you have a relief man out there?

A. No.

Q. Did you ever get any tips on that corner?

Mr. Mouritsen: That is objected to as incompetent, irrelevant, and immaterial.

Trial Examiner Kennedy: Well, I don't think it is very definite what kind of tips. [1157]

Q. (By Mr. Yoakum) Did anybody ever give you more than—not that kind—I withdraw that

(Testimony of Roy Eley.)

question. Did anybody ever pay you more than a nickel for a paper?

A. Ever pay me more than a nickel for a paper?

Q. The daily, yes. A. No.

Q. You never got more than a nickel?

A. Yes.

Q. Well, now, will you explain what you mean by that? A. Yes.

Q. All right.

A. I have already had a man offer me—give me a dime and when I would offer him his change, he would tell me to keep the change.

Q. Do you understand that to be a tip?

A. Put your own definition on it.

Q. What would you understand it to be?

A. What would I understand it to be? Well, you could call it a tip, I suppose, or anything.

Q. What did you do with that extra nickel?

A. Bought beer for Tom McKinney.

Q. I suppose he told you to buy it?

A. Yes.

Q. Were you treating him? [1158]

A. Yes and no. If I felt like buying him a drink, I would do so, but there were times when he suggested it.

Q. And on all occasions when you got tips you bought Tom [1159] a beer?

A. Not on all occasions.

Q. What did you do then, buy yourself a beer?

A. Sometimes. [1160]

(Testimony of Roy Eley.)

Q. When you first asked Mr. McKinney for a spot, he told you he had one out here at San Fernando and you went out on the bus?

A. That is right.

Q. Now, did he tell you you had to go out on the bus? A. He did.

Q. He said that that was the only way you could go out there?

A. Oh, I could have walked, I suppose. He told me to take the bus.

Q. Well, did he tell you that was a convenient means of getting out to the corner?

A. No; he told me he would pay my fare on the bus.

Q. You had never worked the corner before that night? A. Naturally, no.

Q. And you saw Dick out there?

A. I went out with Dick.

Q. You went out with Dick? A. Yes.

Q. Then Dick told you where to get the papers, is that right?

A. He gave me the papers, that's right. [1161]

Q. Did Dick give you the papers, or did he tell you to get them at the filling station?

A. We both went to the filling station. He gave them to me there as he got them from McKinney.

Q. What time would you usually stop selling?

A. 11:00 o'clock. [1162]

Q. (By Mr. Yoakum) At 11:00 o'clock, what would you do then?

(Testimony of Roy Eley.)

A. I came over and checked in to Dick.

Q. You always checked in at 11:00 o'clock, whether you were sold out or not?

A. That is right.

Q. (By Mr. Yoakum) If you sold out early, you would wait until 11:00 to check in?

A. If I sold out early, I went across the street and got more papers.

Q. From whom? From Dick?

A. That is right.

Q. What if Dick didn't have any papers, what would you do then?

A. That occasion never arose, so I would not know. [1163]

Q. You never sold out? A. No.

Mr. Mouritsen: Just a minute. May we have some period of time specified in these questions, counsel?

Q. I am talking entirely now about the original location at the off-spot corner there early in 1939, I think it was January that it started, and you stayed there for about two months.

A. Something like that.

Q. On the off-spot. And then where did you go?

A. Across the street to the main spot.

Q. Was that a better corner?

A. It was.

Q. How did you get over there?

A. I believe I stated in former testimony that Dick quit and Tom gave me his job.

Q. Did you want the corner?

(Testimony of Roy Eley.)

A. Naturally.

Q. Did you ask Tom to give you that corner?

A. I believe that I did.

Q. When you got over there you sold more papers? A. I did. I worked longer hours. [1164]

Q. Did you ever sell out?

A. Not that I remember of.

Q. What would be your usual draw there?

A. You mean how many papers would I get there?

Q. Yes. The dailies.

A. Well, when I went over there they were still running that early edition, and I might say that a usual night there, if I can recall right—now, I don't want this right down to the paper, but I believe I was given either 26 or 31 on the first edition, and on the 3-Star—or I mean on the Complete, then, I would generally be given what Tom McKinney had left. That was the last spot that he covered on that edition. Then on the 3-Star I would be given from 15 to 20, and on the Midnight from 5 to 10.

Q. Did you used to get more than that when you were on the off-spot, or less?

A. When I was on the off-spot?

Q. Yes. A. Less, naturally. [1165]

Q. How long did you stay on that main spot?

A. Well, until, I believe—I am not exactly certain about that date—some time in June. Now, that might be a little off one way or the other, but I believe about that time.

(Testimony of Roy Eley.)

Trial Examiner Kennedy: June, 1940?

The Witness: 1940; that's right.

Mr. Mouritsen: What?

The Witness: Or 1939, I should have said—1939.

Q. (By Mr. Yoakum) Then you went to Broadway and Brand? A. In Glendale, yes.

Q. What did that corner do while you were there?

A. That corner, if I remember right, used to do an average of about, while I was there, 50 or 60.

Q. Was that more than you did at the——

A. That is right.

Q. ——main spot at San Fernando and Fletcher? [1166] A. That is right.

Q. Did Tom tell you you had to go to that corner? A. Told me I could go if I so desired.

Q. You wanted to go?

A. Naturally, looking for promotion.

Mr. Yoakum: Move the last portion of the answer go out, "looking for promotion," as not responsive, and a conclusion of the witness.

Trial Examiner Kennedy: Read the question.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Kennedy: I think that is sufficiently responsive to remain in.

Q. (By Mr. Yoakum) Did you ever sell out when you were up on the Glendale corner, Broadway and Brand?

A. Not that I remember of. I came close to it

(Testimony of Roy Eley.)

a couple of times, but I don't remember of ever selling out there.

Q. Did you ever call in the Times and ask for more papers? A. No.

Q. Was this rack at Broadway and Glendale there when you started operating on that corner?

A. It was.

Mr. Mouritsen: I believe that counsel misspoke himself. Would the reporter please read the answer? [1167]

(The record referred to was read by the reporter, as set forth above.)

Q. (By Mr. Yoakum) Yes. I beg your pardon. Broadway and Brand. Thank you. The answer is still yes? A. Yes.

Q. How many papers did you keep in it?

A. How many papers did I keep in it?

Q. Yes. A. One in each rack is all.

Q. Were there two Times racks there?

A. No. There is three compartments on the rack. That is what I meant. One in each compartment of the rack.

Q. Were any other papers kept in that rack?

A. Sometimes I would extend the courtesy to the Examiner and allow them to put one in there.

Q. Did Tom tell you to do that? A. No.

Q. Did you ever refuse to let the Examiner boy put his paper in there, in the rack?

A. Not as long as it did not interfere with anything that I did.

(Testimony of Roy Eley.)

Q. In about July of 1939 you went back to the main spot at San Fernando and Fletcher?

A. Somewheres around that time. [1168]

Q. How did you happen to leave the Glendale spot; that is, the Broadway and Brand?

A. Why, the way I happened to leave the Broadway and Brand spot in Glendale, Mr. McKinney doesn't have any automobile besides his own for the transportation of hustlers and papers, and so he had a hustler working at Burbank who made a contract, I believe, with Mr. Cohen, and made arrangements for him to haul hustlers out to Glendale for Tom McKinney, and there is a stipulation in that contract; to the best of [1169] my knowledge and belief he stipulated——

Mr. Cosgrove: Just a minute.

Mr. Yoakum: May we have the answer go out and the question read, please?

Trial Examiner Kennedy: I don't know. It might be a proper answer to your question. You asked him about how this situation arose, did you not?

Mr. Yoakum: I think that is the question, but I do not understand the necessity of going into the terms of some contract.

Trial Examiner Kennedy: I don't, either, and I do not know how we are going to find out until we hear the answer. Now I will entertain a motion to strike when he finishes his answer. Complete your answer.

(Testimony of Roy Eley.)

The Witness: Just how far had I got with my answer there?

(The record referred to was read by the reporter, as set forth above.)

The Witness: That the man who was to haul the hustlers out to Glendale for Tom McKinney insisted on being given the spot at Broadway and Brand, and for that reason I was removed from the spot at Broadway and Brand so that he could handle that spot and haul the hustlers out for Tom McKinney.

Mr. Cosgrove: I move to strike out the answer, if the [1170] Examiner please, on the ground it states conclusions and conjectures of the witness, matters the answer discloses he has no direct knowledge of.

Trial Examiner Kennedy: It may go out.

Mr. Cosgrove: We withdraw the question, if we may, Mr. Examiner.

Trial Examiner Kennedy: It may go out.

The Witness: Did you ask me a question?

Trial Examiner Kennedy: No. The question is also withdrawn.

Q. (By Mr. Yoakum) After you returned to your main spot at the Van de Kamp's drive-in, you sold copies of the Times to the Examiner hustlers?

A. On occasions.

Q. And you charged him three cents?

A. I did.

Q. And why did you charge him three cents?

A. On the orders of Tom McKinney.

Q. He told you to charge three cents?

(Testimony of Roy Eley.)

A. He did.

Q. And that was a penny and a half more than you paid for the paper? A. That is right.

Q. Who kept the penny and a half?

A. I did. [1171]

Q. Do you know what a laydown is?

A. I do.

Q. Would you state what a laydown is.

A. A laydown is a place where you lay papers down and use some sort of a container, if one is handy, or if you can get one, or, if not, simply lay them there with a weight or something so that the potential customers coming by, if they so desire, can purchase a paper and leave the money laying there without you being involved in the transaction.

Q. Did you ever make any of those laydowns after you returned to your San Fernando and Fletcher corner?

A. In case I couldn't leave the papers with the Examiner boy and had no off-spotman, yes.

Q. Did you determine when you would make laydowns? A. Did I detemine?

Q. Yes.

A. The determination is apparent, I believe.

Q. Well, it isn't apparent to me. Perhaps it is to everyone else, but did you determine when you would make laydowns?

A. It is customary to make a laydown as soon as you get on the spot and keep it supplied as long as there is any possibility of selling a paper.

(Testimony of Roy Eley.)

Q. Is that what you did? A. Naturally.

[1172]

Mr. Cosgrove: I understand Mr. Yoakum has finished, and I would like to ask one or two questions.

Cross Examination

Q. (By Mr. Cosgrove) In connection with the transaction where in the absence of the offspot boy you were instructed by Mr. McKinney, so you said, to sell the Examiner boy some papers not at the wholesale price, but to charge 3 cents for them—you remember the testimony? A. Yes, sir.

Q. What did you mean by that term, "wholesale price"?

A. Well, the price at which the paper is sold by the people involved, when they are sold in quantities.

Q. Sold by whom and to whom?

A. By the wholesaler.

Q. Who is the wholesaler?

A. I believe you designated him as the district man.

Q. And to whom are they sold?

A. To whom are they sold?

Q. You heard me. A. To the newsboys.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Eley, was it your practice to [1173] turn in the money for the papers that you received from Mr. McKinney after the conclusion of your operations at the end of the day?

The Witness: While I was on the main spot, yes.

Mr. Hall: Will it be stipulated, Mr. Mouritsen, that the testimony of Thomas McKinney and Roy Eley is not applicable to the case of the Los Angeles Examiner?

Mr. Mouritsen: It may be so stipulated?

Mr. Howard Binford: And may the same stipulation be made with respect to the Stockholders Publishing Company, Inc.?

Mr. Mouritsen: So stipulated.

Mr. Compton: And may the same stipulation be made with respect to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So stipulated. [1174]

JOHN A. ROBERTS

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Roberts?

A. 209 South Olive Street, Los Angeles.

Q. Have you ever been a Times newsboy?

A. Yes, sir.

Q. When did you first start to sell the Times?

A. In the last part of November or the first part of December, 1938.

Q. And where did you sell?

A. At Vermont and Wilshire.

Q. From whom did you obtain that spot?

A. Frank Curtis.

(Testimony of John A. Roberts.)

Q. Who was Frank Curtis?

A. District man—manager.

Q. For the Times? A. Yes, sir.

Q. Did you have a conversation with him about obtaining the spot? [1175] A. Yes, sir.

Q. Where did that conversation take place?

A. At the loading platform of the Times.

Q. Was anyone else there?

A. Yes. There was a lot of hustlers and different men around there, but nobody that was interested in the conversation outside of me and Mr. Curtis.

Q. Will you state what you said to Curtis, and what Curtis said to you?

A. Well, the first night I went down to the Times I asked several of the district men there if they had any——

Mr. Cosgrove: Just a minute. I understand the question calls for this particular conversation.

Mr. Mouritsen: This particular one with Mr. Curtis.

Q. Just state what Mr, Curtis said to you and what you said to him.

A. Well, I asked Mr. Curtis if he had a spot open in his work. He said, "No, I haven't tonight." He says, "You are a little late, but if you come back tomorrow night around 5:00 or 5:30, I will put you to work."

Q. And did you return the following night?

A. Yes.

Q. Did you have a conversation with him then?

(Testimony of John A. Roberts.)

A. Yes.

Q. Where did that take place? [1176]

A. At the same place.

Q. At the concourse? A. Yes.

Q. And was anyone else present?

A. Well, yes, the same bunch of hustlers and men that accumulates there at night.

Q. Well, what did you say to Curtis, and what did Curtis say to you?

A. Well, I just asked him, I said, "Have you got anything tonight?"

And he said, "Yes, I can put you out tonight," but, he says, "It is strictly a traffic spot on the working of the white line." He said, "If you don't get out there and hustle—" First he asked me if I ever sold papers, and I said yes.

"Well," he says, "it is strictly a traffic spot, and you will have to get out there and get that white line, or you won't sell any papers." He says, "It is up to you to get out there or you can't do any good."

Q. Was that about all the conversation that took place that time? A. Yes, that night.

Q. And did you go out to the spot?

A. Yes, sir.

Q. How did you go out there? [1177]

A. Well, I went out—he said he had a man hauling the hustlers out and taking the papers out and he showed me the man and told me to get in the car there and he would take me out to the spot.

(Testimony of John A. Roberts.)

Q. And the man he designated took you out to the spot? A. Yes.

Well, before I went out he told me where I should work. He said, "Work the traffic coming into the city on Wilshire, that is, coming into the city from the beach."

Q. And at that time did he say anything further to you?

A. No, I don't think so. Not right that night.

Q. Did you see Curtis later during that same night?

A. Oh, yes. I seen him when he came down with the papers, that is, when he made the—he didn't make the delivery to me. I seen him pass by coming to make the delivery.

Q. Did you obtain your papers from Curtis directly or from a main spot boy?

A. Well, I—the car that I rode out in the first night we dropped off on the northeast corner of Vermont and Wilshire. He told me to take them on over to the main spot opposite, across the intersection, and he said that the man over there at the main spot would give me my papers.

Q. This was the fellow that you rode out to the main spot with?

A. No. That was the main spot, the main spot man was [1178] already out there. The man that I rode out with, he went on and delivered to the hustlers, to the other spots, and he had a spot himself. He went on to his own spot.

(Testimony of John A. Roberts.)

Q. And did Curtis come around on a number of occasions—you saw him on that night?

A. Yes, a couple of times that night; yes, sir.

Q. How long did you sell the Times on that night? A. What time did I get there?

Q. Yes. A. 12:30.

Q. What did you do then?

A. Well, those men, the same men, if I remember right, that had taken me up, picked me up and brought us in to town.

Q. Did you ever have any conversation with Curtis after that time or at that time, regarding working after that particular night? A. Yes.

Q. And where did that conversation occur?

A. As I recall it, it was at the loading platform of the Times.

Q. And who were present?

A. Well, just he and I—that is——

Q. And when did it take place with reference to the first conversation you had with him? [1179]

A. Well, it was two or three, or possibly four nights after I went out with him.

Q. What did he say to you and what did you say to him?

A. Well, the corner I had was an awful tough spot, and I told him, I says, "I can't hardly make a go of it here,"

And he says, "Stick around, kid. I will take care of you in a few days," or something like that effect.

Q. How long did you continue to work that spot; that is, the incoming traffic?

(Testimony of John A. Roberts.)

A. If I remember right, I worked there two nights coming in the city, and then I switched over on Wilshire going out of the city, on the white, the same—about five nights there. Four or five or six nights on both them two spots on Wilshire.

Q. And how was that change made?

A. Well, I don't know how. I don't remember just exactly how the change was made. In those I just—they happened to be the boys there—neither one of the spots was any good and whoever got there was kind of—didn't make any effort. They was both practically the same. If the other man was on the spot when I got there he got his papers first and I just taken the opposite side on Wilshire.

Q. On the spot there, are there any racks?

A. Yes, sir.

Q. Did you ever have a conversation with Curtis regarding [1180] those racks? A. Yes.

Q. About when with reference to the time when you first started did that conversation occur?

A. Oh, had a couple of different conversations; if I remember right.

Q. About when did the first conversation regarding racks occur?

A. Well, possibly the first night I went out. I believe as near as I can recall it, it was the first night I went out.

Q. And where did that occur?

A. That was there at the platform, if I recall it, before we left there.

(Testimony of John A. Roberts.)

Q. What did he say to you and what did you say to him?

A. Well, he said, "There is a rack out there," and he said, "Put your papers out there where the people can see them."

Q. And after that time did you put your papers out in the rack? A. Yes, sir.

Q. What kind of a rack was that? Did it have just a place for one paper or for three papers?

A. Well, now, I couldn't say just exactly whether there was the Times or Examiner rack on all the corners or not, but I know the one on the corner on —to follow—well, [1181] there was a Times and Examiner, both, there, if I am not mistaken. They had, it seems to me like two or possibly three places in there that they could put papers.

Q. Is there a drive-in eating stand near that spot?

A. Yes, sir. There is one right across the street where I moved to later on.

Q. When did you move to this spot across the street?

A. Well, as near as I can remember, there was five or six—four, five, or six nights after I started to work.

Q. Did you ever have a conversation with Custis regarding that drive-in stand?

A. Yes, sir.

Q. About when did that conversation occur?

A. Just a few nights after I went to work there.

Q. And where did it occur?

(Testimony of John A. Roberts.)

A. At the loading platform.

Q. Who were present?

A. Just he and I had a conversation there.

Q. What did he say to you and what did you say to him?

A. Well, the man that was there working, at Vermont and Wilshire, going out of town on Vermont, was going to quit, see, and he told me that he was going to quit, and so I asked Mr. Curtis when I went down the next night—that I understood that Frenchie was going to quit, and I asked him how about getting that spot; I understood it was a [1182] little better.

And he said, "Do you think you can handle it?"

I said, "Why, I guess I can."

He said, "You know, it's in a different spot than where you have been working."

He said, "You have to work traffic and cover this drive-in stand." He says, "You have got to watch them cars in there every ten or fifteen minutes and make the stands and work your traffic as much as possible."

And he tole me, he says, "Now, it's all right to go in this stand and go in the bar there and flash your papers, but do not blast your headline or anything like that. The management objects to that, but," he says, "hold your paper up and give the customers a chance to see the paper. Don't cause any disturbance, or anything like that."

And then he said, "Go right back to your safety

(Testimony of John A. Roberts.)

zone." There was a safety zone right in there where I was working.

Q. What did you understand by the use of the expression "do not blast your headlines"?

A. Well, it seems to me, you know, when you are out on the corner you blast your headlines out—yell it out—your headlines.

Q. What you understood was he was telling you not to blast it out, or yell it out?

A. Yes, that's right, in the drive-in stand or in the [1183] lounge.

Q. While you were on these spots, how many different editions of the Times did you handle as a rule each night? A. Three.

Q. What were they?

A. Well, the first edition was generally a one or two-Star, then they had a three-Star, and the R.

Q. Now, did you ever have any conversation with Curtis regarding the handling of these various editions?

A. What do you mean? In the way of displaying or——

Q. Any conversation regarding the display of the various editions, or handling earlier editions with reference to later ones?

A. No, I can't say that I had any conversation with regard to that. I have had an order from—in regard to displaying magazines or something like that. He would tell me—probably before we left the paltform he would say, "We have a magazine——"

(Testimony of John A. Roberts.)

If I remember right, there was a Shirley Temple magazine came out just before Christmas. He told me, "It will sell you some papers if you get that out where the people can see it, and let them know you have got it in the paper. It's up to you to do that.

Q. That was a special feature in the paper?

A. Yes. That was inside of the paper. [1184]

Q. What I have reference to, Mr. Roberts, did Mr. Curtis ever say anything to you about your actions with reference to earlier editions of the paper after subsequent editions had been furnished to you?

A. Well, I don't believe——

Q. Now, that can be answered just yes or no. Do you recall any such conversation?

A. No, not Mr. Curtis.

Q. From time to time while you were appearing on this spot did you receive advertising placards, advertising special features in the Times?

A. Yes, sir.

Q. Did you receive any instructions with reference to those advertising placards?

A. Do you mean from Mr. Curtis?

Q. From Mr. Curtis.

A. No, I didn't.

Q. Did you from anyone else?

A. Yes, sir.

Q. From whom?

A. The main spot man.

Q. And in general, what were those instructions?

(Testimony of John A. Roberts.)

A. Well, as a rule, when the Sunday paper comes out, there is a placard or whatever you call it, to post up on the telephone pole, or something like that, any place you can [1185] tack them up where people can see them, and the main spot men will tell you when they come around with the Sunday paper, they throw out six or seven of them and when you go over to get your papers he says to put them on the telephone pole or something like that.

Q. And did you put them on the telephone pole?

A. Yes, sir.

Q. About how long did you continue to operate on that spot?

A. Right up until a few days before Christmas, 1938.

Q. And were you removed from that spot?

A. Yes, sir.

Q. By whom? A. Mr. Curtis.

Q. Prior to the time when you were removed, did you have a conversation with him?

A. Yes, sir.

Q. And where did that conversation occur?

A. There on the corner of Wilshire and Vermont.

Q. And was anyone else present?

A. No, sir. He was just in the car himself.

Q. What kind of an evening was it with reference to the weather?

A. It was raining.

Q. What did Mr. Curtis say to you and what did you say [1186] to Mr. Curtis?

(Testimony of John A. Roberts.)

A. Well, Mr. Curtis came along with the 3-Stars, and I was standing under the drive-in stand out of the rain, and he gave me a horn and I went out to the curb, and he says, "What the hell are you doing under there?" He says, "You can't sell no papers under there."

And I says, "I can't sell any out there, it is raining, you will get your papers wet, the cars are passing and the windows are rolled up," and the stand was naturally filled up with cars and what sales I had made that night was practically all there at the stand—pardon me; will you read the answer there?

(The record referred to was read by the reporter, as set forth above.)

The Witness: Thank you.

Q. Was that about all the conversation you can recall?

A. "Well," he says, "you will have to get out there and hustle your papers out there, and work just like you would any other night," and that is practically all he said that night.

Q. Did you have a conversation with him after that night? A. Yes, sir.

Q. And when did that conversation occur?

A. The next evening when I reported for work.

Q. And where did it occur? [1187]

A. There at the loading platform of the Times.

Q. And was anyone else present?

(Testimony of John A. Roberts.)

A. No, not—well, there was people around there, but nobody interested in the conversation that I recall, only just he and I.

Q. Now, what did Mr. Curtis say to you and what did you say to Mr. Curtis?

A. Well, I came down there that evening as usual to go to work, and when I came down to speak to Frank to let him know that I was there, and then he says, "Roberts, I can't use you any more; I am going to have to put somebody on there that will hustle that spot. I have got so many papers to sell and I have got to put somebody on there that will work it better than you are."

I said, "Well—well." That is all that was said.

Q. Now, after you were put on the spot, did you report each evening to the Times Concourse?

A. I think I had one evening off during that time.

Q. And on the days that you operated on the spot, were you transported from the Times concourse to the spot? Were you taken out there in a car? A. Yes.

Q. By this same boy that Mr. Curtis had designated when you first obtained the spot?

A. Yes, the same one. [1188]

Q. And the days that you operated on that spot, were you returned to the concourse by the same hustler?

A. No, not right directly to the Times. They would come up through town and they would say,

(Testimony of John A. Roberts.)

"Where do you want to get off"? And wherever it was closest to where you live, that is where it was. They didn't make any special delivery or anything.

Q. Did Mr. Curtis ever furnish you a change apron?

A. Yes, sir—No, I wouldn't say that; I don't believe he ever did.

Q. I believe you stated, Mr. Roberts, that you were off one day; is that correct?

A. Yes, I believe it was only one. I know it was one night, anyway.

Q. With reference to your day off, did you have a conversation with Mr. Curtis? A. Yes, sir.

Q. And where did that occur?

A. There at the loading platform of the Times.

Q. About when did it occur?

A. Well, the regular time when I came down to go to work, but I asked permission the evening before.

Q. Let's find out about that conversation. About how long after you started to sell did the conversation take place? [1189]

A. Oh, it was possibly two weeks.

Q. And it took place at the concourse, is that correct?

A. That is where the conversation was.

Q. Now, who else were present, if anyone?

A. Just the regular bunch that assemble there every night.

Q. Now, will you state what you said to him and what he said to you?

(Testimony of John A. Roberts.)

A. I asked Mr. Curtis, I said, "Mr. Curtis, I would like to lay off tomorrow night."

"Well," he says, "I don't know," he says, "You drop back here tomorrow night at the regular time and if I can get hold of somebody that I think is all right, it is O. K."

Q. Is that about all the conversation that you had?

A. Yes, that night.

Q. Did you have a conversation with him the next day? A. Yes.

Q. Where?

A. At the same place there, at the loading platform.

Q. Was anyone else present?

A. No, just him and I were there having the conversation.

Q. Will you state what that conversation was?

A. Well, I came down and waited around there, and I asked him if he could get a man, and he looked around and finally got one, and he said, "Go ahead and report back tomorrow [1190] evening at the same time, the regular time."

Q. Mr. Roberts, I show you a picture that has been marked Board's Exhibit No. 13, and I will ask you if that is a correct picturization of the place in the street that a traffic spot boy sells.

A. Yes, sir.

Q. And these white lines, they are the traffic lines to which you referred? A. Yes, sir.

(Testimony of John A. Roberts.)

Mr. Mouritsen: You may inquire.

Cross Examination [1191]

Q. Mr. Roberts, your present recollection is that you began to work, I think, probably November of 1938?

A. Yes; it was either the latter part of November or the first of December, 1938.

Q. And you stopped selling papers there just before Christmas? A. That is right.

Q. Do you think you were selling papers there for 30 to 40 days?

A. No, sir, I don't think I was there that long.

Q. Well, would you say 20 to 30 days? [1194]

A. Yes, about 20 to 30 days.

Q. Had you ever sold the Times before that?

A. No, sir.

Q. You began selling papers there after a couple —two, I believe you said, conferences with Frank Curtis, held down at the concourse, or the platform of the Times Building? A. Yes, sir.

Q. Now, where were you living at that time? And you do not have to give me the house number; just generally where it was.

A. If I remember correctly, it was about 119 or 123½ South Main Street.

Q. That is somewhere in the neighborhood of Second and Main? A. Yes, sir.

Q. That would be North Main?

A. No, sir.

Q. South Main?

A. South Main, yes, sir.

(Testimony of John A. Roberts.)

Q. Let's see, that would be about how many blocks from the concourse?

A. Oh, that is only just a block east and—well, it is about the middle of the block. It would be about a block and a half, or a little bit more than that.

Q. Well, a block and a half or two blocks from, the con- [1195] course? A. That is right.

Q. Now, Wilshire and Vermont intersection, do you know approximately how far it would be from your home, or from the concourse?

A. Do I have any idea?

Q. Yes, just approximately.

A. Oh, it is possibly——

Q. State it in miles.

A. Three or four miles, something to that—near to that.

Q. Well, all right. You say you think something about four miles?

A. Well, in the neighborhood of that, yes.

Q. Well, that is close enough. In other words, to get out there to sell those papers from your home and get back to your home after it was finished, it was necessary to have some form of transportation, some conveyance; it was not walking distance, was it?

A. Well, it would have been quite a long walk.

Q. Well, after you sold papers for several hours, you would not feel like walking back that distance, if you could get a ride with some newsboy, would you?

(Testimony of John A. Roberts.)

A. No, sir, absolutely not.

Q. Well, going back and forth in the automobile was a [1196] matter of accommodation to you, was it not?

Mr. Mouritsen: Just a minute. That is objected to as calling for the conclusion of the witness; and immaterial.

Mr. Cosgrove: Well, I think it is very material, but as long as the objection is made to it, I will reframe the question, with the permission of the Examiner.

Q. Did you pay for the ride out, Mr. Roberts?

A. In actual cash?

Q. Yes. A. No, sir.

Q. Did you pay in any form of merchandise?

A. No, sir.

Q. Every night that you went out there you had transportation, did you? A. Yes, sir.

Q. And did you get transportation back every night? A. Yes, sir.

Q. And when you came back, why, they would let you off the closest place to your place of residence?

A. Yes. He generally came up Spring Street or Broadway there, or something like that, and we would ask—well, we would tell him, "Let me off at Second," or Seventh or Fifth or wherever it happened to be.

Q. You would ask the driver to let you off?

A. Yes, sir. [1197]

(Testimony of John A. Roberts.)

Q. At the place that was convenient to your home? A. That is right.

Q. Now, the first night that you talked to Frank Curtis—is he the first man you spoke to down at the concourse that evening?

A. No. As I recall, I asked two or three more of the district men there.

Q. Sir?

A. As I recall, I asked two or three more of the district men there.

Q. Had you known Frank Curtis prior to this time? A. No, sir.

Q. How did you know he was a district man?

A. Well, I don't—I imagine I asked someone to point me out a district man.

Q. You asked somebody what?

A. I imagine I asked somebody to point me out some district man.

Q. You do not now definitely recollect that?

A. No, I don't.

Q. What was your reason, Mr. Roberts, for asking someone to point out the district man?

A. Well, I naturally supposed they did the hiring.

Q. Well, you had sold papers before, hadn't you? A. Yes, sir. [1198]

Q. And you knew that the district man brought the papers out to the street intersections where they were sold, did you not? A. Yes, sir.

Q. And had you been selling papers a matter of months before November, 1938?

(Testimony of John A. Roberts.)

A. Well, it was a matter of about a year, yes, sir.

Q. What paper were you selling.

A. The Examiner. [1199]

Thursday, June 20, 1940.

Met, pursuant to adjournment, at 9:30 o'clock A.M. [1203]

Q. (By Mr. Cosgrove) At the time of the adjournment last evening, I think I was asking you about the conversations that you had down at the platform or concourse with Mr. Frank Curtis, and particularly with reference to the first talk you had.

Now, the second talk you had, Mr. Roberts, was the following evening, was it not?

A. Yes, sir; that was the following evening.

Q. Now, at the second conference, Curtis made known to you that there was a vacancy, or spot, as you call it, where you would be able to sell the Times?

A. He told me he could use me that night in his work.

Q. Did he tell you where that vacancy was?

A. Yes, sir.

Q. That night did you go out in an automobile, or did you go out in a bus? [1205]

A. Went out in a car. [1206]

Q. That first night that you went out, did you get

(Testimony of John A. Roberts.)

your papers, that you afterwards sold, downtown or out on the Vermont and Wilshire corner?

A. Out on the main spot of Wilshire and Vermont.

Q. Did you get it over on the main spot?

A. Yes, sir.

Q. So after you got out on the northwest corner, you walked over to the southeast corner before you got your papers? A. That is right.

Q. From whom did you get your papers? Do you know?

A. Well, I don't know his name. The main spot boy counted [1207] out the papers there.

Q. From another boy there?

A. That is right.

Q. Did he tell you where you should go, or did you know at that time where you should go?

A. Well, Mr. Curtis told me I should work on the traffic coming into the city on Wilshire Boulevard. [1208]

Now, when you got those papers, did you know how much you were being charged for them?

A. Yes, sir.

Q. Who told you? A. Mr. Curtis.

Q. How much did he tell you? [1209]

A. I was charged one cent on them.

Q. How much did you sell it for?

A. Five.

Q. You kept the difference between the one and the five? A. That is right.

(Testimony of John A. Roberts.)

Q. So the first Saturday night that you went out you sold the Sunday paper Saturday night?

A. That is right.

Q. And for that Sunday paper, how much were you charged?

A. I was charged five cents.

Q. And how much did you sell it for? [1210]

A. Ten cents.

Q. And the difference between the five cents and the ten cents, did you keep that?

A. Yes, sir.

So that the only money you made out there, the only money you got for your efforts out there was the difference between the one cent that you paid for the daily and the five cents for which you sold it; is that correct? A. Yes, that is all.

Q. That is all you got? A. Yes.

Q. And on Saturday nights all the money you made was the difference between the five cents that you paid for the paper and the ten cents that you sold it for? A. That is correct. [1211]

Q. And you say that somebody instructed you to put papers in those racks the first night you were out there? A. Yes, sir.

Q. And that was whom? A. Curtis. [1213]

Q. Do you remember on which of these corners you sold the most papers? A. Yes, sir.

Q. That was three corners you worked there, wasn't it?

A. Yes, sir; that was three corners.

(Testimony of John A. Roberts.)

Q. Which one did you sell the most papers on?

A. At Wilshire and Vermont, at the drive-in sandwich stand.

Q. That is the northwest corner?

A. That is right.

Q. Is that the place where you were standing the night that you had the talk with Mr. Curtis, the night it was raining?

A. Not when I had the talk I wasn't standing there.

Q. Well, were you working that corner?

A. Yes, sir.

Q. I didn't understand—I heard what you said when you told about where you were standing at the time Mr. Curtis came up there, and would you tell us again where you were standing? [1227]

A. I was standing in where they served—where the counters are there, where the people sit and drink and eat, at the entrance where the girls come in and get their service trays. I was standing in back out of the rain.

Q. In other words, the building where the sandwiches and things that are sold are prepared.

Does it have a sort of canopy where you can stand in out of the weather or do you have to go through a door?

A. I don't know whether there is a canopy there. I was standing back in the building. I couldn't say whether there was a canvas over that or not.

Q. Well, was there sort of an approach over it?

A. Well, I don't recall.

(Testimony of John A. Roberts.)

Q. You were not standing in the rain, were you?

A. Certainly not.

Q. Then you were standing underneath some sort of shelter, weren't you? A. Yes, sir.

Q. Did you have to go through a door to get in under that shelter?

A. Well, I don't know whether I was standing in back of the open door or out under the canvas, or what. I know I was standing under either a canvas or under the roof of the stand.

Q. It was raining hard, was it?

A. Yes, it rained hard. [1228]

Q. What time of night was it?

A. Oh, you mean when I had the conversation with Mr. Curtis?

Q. Yes.

A. Oh, I don't know. It was sometime around 10:00 o'clock, something like that. Maybe a little later. It might have been a little earlier. I don't know.

Q. You do not remember what time it was. Do you remember what he said, though?

A. Sure I remember what he said.

Q. Were you standing under the shelter when he spoke to you? A. No, sir.

Q. Did he call you out from under the shelter?

A. He blowed his horn.

Q. You recognized his horn?

A. Why, sure.

Q. Sir? A. Yes, sir.

(Testimony of John A. Roberts.)

Q. You knew it was not somebody blowing the horn to attract your attention to purchase a paper?

A. Well, might have—when the horn sounded and attracted my attention, why I saw it was him, and I went on out.

Q. In other words, you recognized who it was when you heard the horn and looked out at the car; you then recognized who it was?

A. Oh, yes, sir. [1229]

Q. Now, what was it he said to you?

A. He said "What the hell are you doing up under there"? He says, "You can't sell no papers under there."

Q. And what did you say in response?

A. Well, I told him that "It is raining and I got in there to keep dry and keep my papers dry. The traffic and all the people coming down had their windows rolled up, and there was no chance for a sale, and what sales I had made had been around there, and I was trying to keep——"

Q. (Interrupting) What did he say?

Pardon me; did you finish?

A. I think that is about all I said. There might have been something else, a little bit.

Q. Did he make any response to that?

A. I can't remember just exactly whether he made any more remarks.

Q. Did he leave then? A. Yes.

Q. And go on down the street?

Did you go back under the shelter?

A. Sure.

(Testimony of John A. Roberts.)

Q. The next night you had a conversation with him down at the platform, or concourse, as some of the witnesses have called it; is that true?

A. Well, yes, that's right. [1230]

Q. Did he speak to you first, or did you speak to him first?

A. I don't recall. I don't recall who spoke first.

Q. By the way, was there anybody in the car with him when he spoke to you the night it was raining? A. No, sir.

Q. Well, the next evening what was the conversation as you now recall it?

A. Well, I just reported down there as usual and went up and spoke to him to let him know I was there.

Q. What did you say?

A. I don't think I said anything. I just spoke to him.

Q. "Good evening" or "Hello," or something like that?

A. I probably said "Hello."

Q. Do you have any recollection of that?

A. No, I don't have any recollection. I walked up and spoke to him. Lots of times you just walk up and they see you there.

Q. I am talking about this particular evening.

A. I don't remember. I know I reported back.

Q. All right, you don't remember. That is all. What did he say, and what did you say?

A. Well, he just told me "Roberts, I am going

(Testimony of John A. Roberts.)

to have to put somebody else on that corner that will get out there and shake it up and sell papers. I have got so many papers to sell, and I have got to have the sales." [1231]

Q. All right.

Did you work that night? A. No, sir.

Q. And you haven't sold any papers for the Times since? A. Yes, sir.

Q. Well, now, that was about Christmas time of 1938? A. Yes, sir.

Q. I think you said a little before Christmas?

A. A little before Christmas. I know I wasn't working Christmas.

Q. Well, how long after that did you again commence selling the Times?

A. I never sold the Times, hired by the Times' men, after that. I had a combination spot, but I was hired by the Examiner.

Mr. Cosgrove: Would you please listen to the question.

May we have it read, your Honor?

Trial Examiner Kennedy: You may.

(The question referred to was read by the reporter, as set forth above.)

Mr. Hall: May I have the answer read?

(The answer referred to was read by the reporter, as set forth above.)

Mr. Hall: I move to strike out the answer as not responsive. [1232]

Trial Examiner Kennedy: It may go out.

(Testimony of John A. Roberts.)

Read the question again, please?

(The question referred to was read by the reporter, as set forth above.)

Q. (By Mr. Cosgrove) Do you understand the question? A. Yes, sir.

Q. All right. Will you please answer it?

A. I don't know. It was a short time afterwards, possibly maybe a month or two or three weeks. I don't know. It took quite a little while.

Q. Where did you start selling the Times the next place? A. Slauson and Crenshaw.

Q. Slauson and Crenshaw

A. That is right.

Q. And at Slauson and Crenshaw, did you sell the first edition and second edition the same as you had been selling at Wilshire and Vermont?

A. Of the Times, you mean?

Q. Yes. A. Yes, sir.

Q. And what did you get for them when you sold them?

A. I am not positive whether that was after——

Q. Now listen to the question. I don't want to confuse you. It is a simple question.

When you sold the paper to the man that bought it from you, how much did you get for the paper?

[1233] A. Five cents.

Q. Now, how much did you pay when you bought those papers?

A. As near as I can recollect, I believe at that time—will you read the question, please?

(Testimony of John A. Roberts.)

(The question referred to was read by the reporter, as set forth above.)

The Witness: I am not sure whether it was a cent and a half or a cent for the daily.

Q. (By Mr. Cosgrove) From whom did you buy them?

A. The regular man in the district, Walt Verry. As a rule he delivered the papers to me.

Q. That was at Slauson and Crenshaw?

A. Yes.

Q. What was the man's name?

A. That delivers papers there?

Q. The man from whom you bought them?

A. Walt Verry delivered them there to me.

Q. That is a Times' district man?

A. That is right.

Q. What did you mean when you said a little while ago that you bought them from the Examiner man?

A. I don't believe I made such a statement.

Q. Well, when you started selling the Times a short time after Christmas, 1938, you started selling at Crenshaw and Slauson, is that correct [1234]

A. That is right.

Q. And you got your papers from a Times district man named Walter Verry?

A. That is right.

Q. Did you go down to the concourse and ask Walter Verry if he had a vacant spot?

A. No, sir.

(Testimony of John A. Roberts.)

Q. How did you get in touch with him?

A. I didn't get in touch with him.

Q. With whom did you arrange to sell papers at Slauson and Crenshaw?

A. I was hired by the Examiner, what is called a combination spot. You had both papers.

Q. You were hired.

How much were you paid?

A. Well, I was put to work or hired, or whatever you want to call it.

Q. I see. You weren't paid anything, were you?

A. Well, I made some money out there. I don't know whether I was paid it or not. I made it.

Q. What you made, Mr. Roberts, was the difference between what you sold the paper for and what you bought the paper for; isn't that correct?

A. I don't know how that question is. Will you read that again? [1235]

Q. I will reframe it now and see if we can understand one another.

You sold the paper for a nickel, didn't you?

A. That is right.

Q. And you bought the paper for a cent or a cent and a half? A. That is right.

Q. And the difference of 3½ cents or 4 cents, whichever it was, you kept?

A. That is right.

Q. That was your profit in the transaction?

A. Yes, sir.

Q. And when you say you made money, you

(Testimony of John A. Roberts.)

mean that you got that profit out of the sale of the paper?

A. Yes, the papers I was selling, sure.

Q. And that is all the money you got, isn't it?

A. Yes. [1236]

Q. Now, going back to the corner of Vermont and Wilshire, and the time that you went over to the northeast corner. Now you have in mind the northeast corner. That is the second corner you worked. Do you remember that? Is that correct?

A. The northeast corner?

Q. Yes.

A. Yes, that was the second corner.

Q. Now, did you work there more than one night?

A. I wouldn't say. I don't know whether it was a night or two or three; somewhere along there. I don't remember.

Q. Well, do you know why you left the southwest corner and went to the northeast corner?

A. Yes, I think I do.

Q. Why?

A. Well, I think that I previously testified those two cor- [1239] ners were practically the same, and whatever man happened to get out there first, he would just probably go over there. He would be over there, and it didn't make much difference where you were. [1240]

(Thereupon, the document above referred to was received in evidence and marked as Re-

(Testimony of John A. Roberts.)

spondent, Times-Mirror Company's Exhibit No. 4.) [1241]

Q. (By Mr. Cosgrove) Now, I will show you a photograph, which I will ask to have marked Times' Exhibit No. 5 for identification, and I will ask you if you will study the photograph for a minute, and I call your attention to the Owl Drug Company sign on the southeast corner of Vermont and Wilshire, and to the drive-in station, as it is called, which is on the northwest corner, where you were working the rainy night, and to the safety zone alongside the street car tracks, and I will ask you if that appears to be a picture of the intersection of Wilshire and Vermont looking south on Vermont?

(Thereupon, the document above referred to was marked as Respondent, Times-Mirror Company's Exhibit No. 5 for identification.) [1243]

Mr. Hall: Will it be stipulated the testimony of John Roberts has no application to the Los Angeles Examiner's case?

Mr. Mouritsen: With the exception of that part pertaining to his activities on Slauson and Crenshaw, I will so stipulate, if that is acceptable.

Mr. Hall: Well, I guess we had better have him back on the stand for a little more cross examination then, if that is the situation. [1245]

Trial Examiner Kennedy: Do you wish to have him back on the stand?

Mr. Hall: Yes.

Mr. Hall: I will accept the stipulation with

(Testimony of John A. Roberts.)

counsel's limitation, which I understand to be this: That the testimony of John Roberts is not applicable to the Los Angeles Examiner case except with respect to Mr. Roberts' activities at the corner of Slauson and Crenshaw. Is that correct?

Mr. Mouritsen: That is correct.

Mr. Howard Binford: May it be stipulated, Mr. Mouritsen, that the testimony of the witness John Roberts has no application to the Stockholders Publishing Company?

Mr. Mouritsen: It will be so stipulated.

Mr. Compton: And the same stipulation as to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: It is so stipulated. [1246]

PHILIP JOSEPH TELLIS

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. Have you ever been a Times newsboy?

A. Yes, sir.

Q. While you were a Times newsboy, did you ever have a conversation with any district manager regarding the handling of other publications?

A. I have.

Q. And about when did you have that conversation?

(Testimony of Philip Joseph Tellis.)

A. About two months ago. About April—about the middle of April. [1247]

Q. The middle of April, 1940? A. 1940.

Q. With whom did you have such conversation?

A. Bill Moore.

Q. Now, what did Mr. Moore say to you and what did you say to Mr. Moore?

A. Mr. Moore told me that he was building up that spot and [1248] that he did not want me to handle the Examiner. It was strictly a Times corner.

Q. At that conservation, did he say anything respecting any other publication?

A. Not—not at the time, no.

Q. Did you have any other—strike that. Was that about all of the conversation that you recall?

A. Practically all.

Q. And did you act in accordance with what he said to you in that conversation?

A. Well, no. Couldn't and make a living.

Mr. Cosgrove: We move that the last part of the answer, "I couldn't and make a living" be stricken out as not responsive.

Trial Examiner Kennedy: It may go out. The answer "No" may remain.

Q. (By Mr. Mouritsen) Did you have a conversation at that time respecting any other publication? A. No.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Cosgrove) Mr. Tellis, are you still

(Testimony of Philip Joseph Tellis.)

selling the Times? A. Times?

Q. Are you still selling the Times? [1249]

A. Times? Yes, sir.

Q. How long have you been selling the Times?

A. Well, off and on since the first of the year.

Q. That is 1940? A. 1940.

Q. Have you been at the same location all of this time?

A. No. I have changed around, several locations.

Q. At what corner were you selling in the middle of April, 1940, when you had this conversation with Mr. Bill Moore? A. Northeast corner.

Q. What intersection?

A. Alvarado and Beverly.

Q. Alvarado and where? A. Beverly.

Q. What corner were you working there? What corner were you selling? What corner were you occupying when you were selling?

A. The north—northeast.

Q. You sold all editions of the Times, or just the evening edition? A. Evening.

Q. What time did you go on the corner?

A. On week days, about 6:00 o'clock; Saturdays, at 2:00; and Sundays at 4:00.

Q. Do you live in that neighborhood? [1250]

A. Yes, sir.

Q. How far from Beverly and Alvarado do you live? A. About eight blocks.

Q. Do you go down to the concourse and come

(Testimony of Philip Joseph Tellis.)

out with the papers, or do you go from your home—

A. (Interrupting) Well, as a rule I did.

Q. As a rule you came down——

A. I went out in the machine. I would go down to the Times and come out to the corner.

Q. And come out?

A. As a rule. Once in a while I would go to the corner.

Q. Well, why did you sometimes—did you walk over to the corner from your home?

A. Yes, sir.

Q. Why did you sometimes go directly over to the corner and at other times go down to the concourse and ride out?

A. Well, I would be—if I was late I would go right out on the spot, and if I had time, I would go down to the Times and ride out.

Q. How did you get from the concourse—that is, the Times' platform, as you call it—how did you get from the concourse out to Beverly and Alvarado? A. By machine.

Q. And whose machine was it?

A. It was the distributor's, Bill Moore. [1251]

Q. One of the men that hauled out a number of newsboys and a number of papers?

A. I would either ride in a sedan, or on Saturdays we would ride out on the truck.

Q. Did you have to pay any transportation?

A. Never paid no transportation.

Q. Did you work a traffic line as well as the corner? A. Worked traffic, yes.

(Testimony of Philip Joseph Tellis.)

Q. The traffic is heavy there——

A. (Interrupting) Pretty heavy.

Q. (Continuing) ——at 6:00 o'clock in the evening, isn't it?

A. Pretty heavy between 6:00 and 8:00. Pretty heavy traffic. And it would drop off until about 10:00—10:00 until 11:00, when it would pick up.

Q. Did you get any salary from the Times?

A. No salary. I was supposed to work as an independent merchant. I always considered myself as an independent merchant. Bought my papers and sold.

Mr. Cosgrave: That is all, Mr. Tellis.

Trial Examiner Kennedy: Just a minute, Mr. Witness.

Is there any further examination?

(No response.)

Trial Examiner Kennedy: Do you have any Social Security card?

The Witness: Yes, sir. [1252]

Trial Examiner Kennedy: Do you know who is registered as your employer under Social Security?

The Witness: Well, our transfer company out in Hollywood. Let's see. I can't think of the name at the present time.

Trial Examiner Kennedy: When did that registration take place with that company?

The Witness: About two years ago.

Trial Examiner Kennedy: And you have made no change since that time?

(Testimony of Philip Joseph Tellis.)

The Witness: No change on the Security card, no, sir.

Trial Examiner Kennedy: All right.

Is there anything further?

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Tellis, did you ever receive a bonus from the district man for building up the corner? [1253]

The Witness: No, I never got any.

Q. (By Mr. Mouritsen) During the period you were working out at this spot at Alvarado and Beverly, did you build that spot up there so that you sold more papers at the end of the time than you did at the beginning?

A. There was nobody there for probably two or three years, and I was told that that corner could not be built up, and I said I could sell ice boxes to Eskimos in Alaska, and I went up there and I built it up and I built it up so good that all the distributors wanted to take it away from me.

Q. Did Mr. Moore give you anything for building that corner up? A. No.

Mr. Hall: Will it be stipulated, Mr. Mouritsen, that the testimony of Phillip Joseph Tellis has no application to the Los Angeles Examiner case?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: The same stipulation for the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So stipulated.

(Testimony of Philip Joseph Tellis.)

Mr. Howard Binford: And the same stipulation for the Stockholders Publishing Company? [1254]

Mr. Mouritsen: So stipulated.

(Witness excused.)

JOHN FRANCIS FIELDS

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Fields?

A. 706 West Third Street, Los Angeles.

Q. Have you ever been a Times newsboy?

A. Yes, sir.

Q. When did you first start to handle the Times?

A. Approximately, about September 13, 1938.

Q. And did you obtain a spot at or about that time?

A. No, I did not. I worked as an extra relief hustler.

Q. Handling what paper?

A. The Los Angeles Times.

Q. Well, after that time did you obtain a regular spot? A. Yes.

Q. And approximately when was that?

A. About—I would judge about September 20th, one week later.

(Testimony of John Francis Fields.)

Q. And the same year? [1255]

A. That is right.

Q. 1938? A. 1938.

Q. From whom did you obtain the regular spot?

A. Bill Moore.

Q. Where was the spot?

A. At Beverly and Western.

Q. Was that a main spot or an off spot?

A. That was a main spot.

Q. Prior to the time you obtained the spot, did you have a [1256] conversation with Mr. Moore respecting the spot? A. Yes. The main——

Q. Well, that is the answer, "Yes."

Where did you have that conversation?

A. At the concourse, before I went to the corner.

Q. Now, with reference to this spot, what did Mr. Moore say to you, and what did you say to Mr. Moore?

A. Well, the main substance of the conversation was that I was to be in charge of the main spot and to check in three off corners.

I will put it in a different way. "You are to take over the main corner and check in three off corners, be responsible for the three off corners daily, and by that I mean that you are to be entirely responsible for the cash taken in. At [1257] the end of the night, you check in to me and account for the newspapers;" and the corners were to be checked in at a specific time at night. The time mainly given was midnight, and I was to report daily at the Times

(Testimony of John Francis Fields.)

concourse at approximately—I believe 4:30 at that time on the week days and 2:00 o'clock on Saturday, and 3:00 o'clock on Sunday, and to check in when he came around, approximately around 1:00 A. M. [1258]

Q. Now, state what he said?

A. That there would be an Examiner man working with me on the corner, and that I was to entirely ignore the Examiner altogether. In other words, if the people want an Examiner, don't make any effort to get it. "You work for the Times."

Q. Is that all that you can recall of the conversation? A. Yes, that is about all.

Q. To refresh your recollection, did Moore say anything to you respecting the traffic lines on that spot?

A. Well, that particular spot where I was was a trolley zone——

Q. (Interrupting) The question is, Mr. Fields, do you recall anything that Mr. Moore said at that time respecting the traffic lines, and that can be answered yes or no. A. No, I don't.

Q. Do you recall anything he said at that conversation regarding the safety zone or street car zone? A. Yes, I was instructed——

Q. (Interrupting) Well, the answer is yes. Now, what did he say?

A. I was instructed to work in the safety zone regularly, to work mostly the traffic.

Q. In that conservation, did Mr. Moore say

(Testimony of John Francis Fields.)

anything to you respecting a drive-in stand on that corner? [1259] A. No.

Q. In that conversation, do you recall his saying anything about racks on that spot?

A. If I recall correctly, yes, there was a Times rack on that side.

Q. Now, the question isn't whether there was a rack, but if you recall anything he said at that first conversation respecting any racks. Now, that can be answered yes or no. A. Yes.

Q. Now, what did Mr. Moore say to you regarding any racks at that spot?

A. The racks were to be covered at all times with a display. In other words, either placards or the edition of the newspaper, the latest edition of the newspaper.

Q. Now, after you had the conversation with Mr. Moore, what next did you do?

A. Well, I followed the instructions——

Q. (Interrupting) I mean after you had the conversation at the concourse, what next happened with you?

A. Oh, I was taken out by car to the corner.

Q. Did Mr. Moore take you out?

A. Yes, sir.

Q. Prior to that time, had you worked that corner? Had you handled the Times on that corner?

A. No, I had not. [1260]

Q. And after that time, did you act in accord-

(Testimony of John Francis Fields.)

ance with this first conversation you had had with Mr. Moore respecting this spot?

Mr. Cosgrove: May I hear the question, please?

Trial Examiner Kennedy: Read the question.

(The question referred to was read by the reporter, as set forth above.)

Mr. Cosgrove: The question is objected to, if the Examiner please, on the ground it calls for a conclusion of the witness, not a recital of fact. He asked him here if he worked in accordance with the instructions. If he says yes or no to that, there is no way of cross examining upon it. He ought to be compelled to say what he did and the Examiner and the Board will determine whether or not he acted in accordance with the instructions.

Trial Examiner Kennedy: Read the question.

(The question referred to was read by the reporter, as set forth above.)

Trial Examiner Kennedy: You may answer.

The Witness: Yes, sir. I followed the——

Mr. Cosgrove (Interrupting): Just a minute, Mr. Fields. The question is answered.

Q. (By Mr. Mouritsen) And from time to time after that time did you receive advertising placards from Mr. Moore? A. Yes, sir. [1261]

Q. Did Mr. Moore ever furnish you a change apron? A. Yes, sir.

Q. And did you use that in your operations on the spot? A. I did.

(Testimony of John Francis Fields.)

Q. How long did you remain on that spot, Mr. Fields? A. Approximately about two weeks.

Q. And are you now engaged in selling the Times? A. Yes, I am.

Q. And at what spot?

A. Sixth and Broadway.

Q. Are you a member of the Newsboys Union?

A. Yes, sir.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Yoakum) Do you hold any office in the Union? A. Yes, I do.

Q. What office do you hold?

A. I am a member of the Executive Board, and also a member of four standing committees.

Q. Had you ever sold newspapers before September, 1938? A. No.

Q. How did you get this main spot at Beverly and Western?

A. Well, I originally went to the concourse, the Times concourse, and tried to get a corner, and Bill Moore said he had some extra work to do, so I lined up with him for [1262] approximately one week on extra work, and the latter part of the week Beverly and Western was open and I worked it for the one day, and he told me that I would work it temporarily until he got a man with a car. In other words, I would be in charge of the main spot until he got a man with a car, as he needed someone to bring the hustlers out to the corners.

(Testimony of John Francis Fields.)

Q. You knew then that your efforts at Beverly and Western were going to be temporary?

A. That is right.

Q. How many papers were left at that corner, this main spot [1263] corner?

Mr. Mouritsen: May we have the time, the period, specified?

Mr. Yoakum: Well, this two-week period that he worked this main spot corner at Beverly and Western.

The Witness: Well, I don't believe I can answer that accurately as it is about a two-year period practically now, but I believe I was left a bundle on the first run, fifty papers.

Q. And did you dish those out to the other boys?

A. Yes.

Q. What did you charge them for those papers?

A. If you mean did I collect——

Q. Did you charge them anything for the papers?

A. Oh, yes, I charged them at the rate of one cent a copy. [1264]

Mr. Cosgrove: Well, it is your understanding, isn't it, Mr. Yoakum, that these questions apply to the operations at Beverly and Western during the two-week period that this young man was there?

Mr. Yoakum: That is right.

Trial Examiner Kennedy: Is that your understanding, Mr. Witness?

The Witness: Yes, sir.

Q. (By Mr. Yoakum) Did you sell any other

(Testimony of John Francis Fields.)

papers while you [1265] were out there on the corner? A. No.

Q. You didn't sell any magazines, either?

A. No.

Q. You had never previously worked that corner, prior to this date in September, 1938?

A. No, I had not.

Q. From whom did you acquire the change apron? A. Bill Moore.

Q. How did you get it?

A. He supplied it to me when I first was sent to the corner.

Q. Did you ask him for it?

A. No, he gave it to me. He gave it to all the corners.

Q. What do you mean by "all the corners"?

A. That is, I mean all his hustlers, anyone that went to work for him, he gave them an apron.

Q. How do you know that?

A. Well, it was done in my presence at this particular corner.

Q. Do you intend your answer now to refer to the hustlers on that corner, that intersection?

A. Well, I believe I do in this case, yes.

Q. You are not referring to other hustlers on other locations? A. No.

Q. They all wear their aprons? [1266]

A. Yes.

Q. Do you know why they wear them?

A. To advertise the paper. That was the understanding.

(Testimony of John Francis Fields.)

Q. Did they help the hustlers? A. Yes.

Q. How did they help them?

A. Well, it was just an advertisement to show what paper you represented on the corner.

Q. Did it help you sell papers?

A. I believe it did.

Q. Did you use the apron for any other purpose? A. No, sir.

Q. You did not put any money in it?

A. Yes. It was a change apron.

Q. And you did put money in it? A. Yes.

Q. What did you pay for the apron?

A. Nothing. [1267]

Q. How long have you been at this Sixth and Broadway?

A. Approximately about a year and four months, I believe.

Q. Since about February or March, 1939?

A. That is right. The latter part of February. I remember it now.

Q. These questions from here on, unless otherwise designated, are going to refer to Sixth and Broadway, and not to Beverly and Western.

What corner did you cover?

A. The southwest corner, in front of Mullen and Bluett.

Q. Is that the main spot?

A. No; it was the off spot at that time.

Q. Is it the main spot now?

A. Well, it was until a recent period here, and there has been a change made again.

(Testimony of John Francis Fields.)

Q. From whom did you get your papers at that time? A. Bill Dyer.

Q. Bill Dyer, district man?

A. That is the district man.

Q. Did you pay him for the papers?

A. No.

Q. Did he give them to you?

A. He credited them to me, and the bill was collected at the end of the night.

Q. Well, you paid for the papers then. You thought I meant, [1268] did you, that you would pay him at the beginning of the evening?

A. Yes, that is what I understood.

Q. But you paid him later in the evening?

A. Later in the evening, yes.

Q. And at what rate for the dailies?

A. A cent and a half for the dailies.

Q. And what would you sell them for?

A. Five cents.

Q. Did you keep the difference?

A. Yes.

Q. Do you sell the One Star and the Three Star and the "R"? A. Yes, sir.

Q. The six, nine and midnight, is that what you call them? A. Yes, sir.

Q. What time of night do you pay for the papers?

A. Well, do you—strike that.

The period of Bill Dyer—in other words, Bill Dyer works three days a week, I believe. Why,

(Testimony of John Francis Fields.)

I am checked in approximately about 12:30. Between——

Q. (Interrupting) Then on the nights that Bill Dyer works there, you pay at about 12:30?

A. With the exception of Saturday, I pay him around 1:00 o'clock.

Q. Well, that is the Sunday paper. We are talking about the [1269] dailies.

A. Daily, yes.

Q. And other nights there is a relief man on, do you pay him at some other time, or is it approximately the same time?

A. It is around 1:00 o'clock.

Q. Who is the relief?

A. Huey Campbell.

Q. Now, when you pay Dyer, do you stop selling papers? A. Yes.

Q. You do not sell any papers after that time?

A. No. The papers are checked in.

Q. What time do you receive—you receive the midnight at what time?

A. Approximately about 11:40.

Q. Do you ever have any papers left?

A. Yes, sir.

Q. Do you return them to Dyer?

A. Yes, sir.

Q. Or Campbell, as the case may be?

A. Or Campbell, yes.

Q. You do not pay for those papers that you return? A. No, sir.

(Testimony of John Francis Fields.)

Q. Since you have been down on the Sixth and Broadway spot, have you ever lost any newspapers?

A. If you refer to the Times, I don't believe I have, no. [1270]

Q. You have never lost a Times?

A. No.

Q. You have never had one taken?

A. No.

Q. You never had one damaged by a pedestrian or a dog or an automobile, or in any other manner?

A. Well, I say that occasionally there has been a wind come up unexpectedly, and a couple of papers have blown out in traffic.

Q. Were you able to use those papers?

A. No.

Q. What did you do with them?

A. Well, they were in a thousand pieces, practically, when I got hold of them, and so I had to put them in my ash can, and finally pay the bill.

Q. You paid for those?

A. Paid for them.

Q. Do you sell any other papers?

A. Yes.

Q. What do you sell, Mr. Fields?

A. The People's World, Ham and Eggs—that is, I have handled the Ham and Eggs—it has not been up there lately; the Socialist Call.

Q. I do not know that name. Socialist Call?

(Testimony of John Francis Fields.)

A. Socialist Call. [1271]

Q. That is a newspaper, is it?

A. Yes, sir. It is an organ of the Socialist Party.

And the Jewish Forward.

Q. Now, is that the same as the Freiheit?

A. No. That is a different one.

Q. Do you sell the Freiheit?

A. No, I don't.

Q. What about The Voice?

A. Yes, I carry that.

Q. The Wall Street Journal?

A. No, sir.

Q. But not the Racing Form?

A. No, sir.

Q. Well, now, are there any other newspapers that you sell?

A. The News. That is, the evening edition of the News. It is not listed as the Evening News, but that is the edition.

Q. You do not sell the Examiner?

A. Yes. I have the Examiner as a laydown since this change has been made recently, and I also carry the Herald for an accommodation. It is no—no commission.

Q. You mean by that that you have an arrangement with the Herald hustler that you carry the Herald?

A. No. I have an arrangement with the Examiner hustler. In other words, he handles the

(Testimony of John Francis Fields.)

Evening News for my benefit on that side, and whatever is taken in is my profit, and vice versa on the Herald. [1272]

Q. Let's see if I have that correct.

The Examiner hustler by arrangement with you carries the Times? A. That is right.

Q. And if he sells it, he turns the entire purchase——

A. No, that is an error there. What I meant was, the entire purchase on the News is turned over to me, and the entire purchase on the Herald I turn over to the Examiner, but the profit on the Times, well, it is 2 cents to the Examiner man, and a cent and a half to myself. In other words, I get a cent and a half profit on the laydown of the Times.

Q. Do you make a laydown on the Times?

A. Yes, I have two laydowns.

Q. Where are those made?

A. The first laydown is Mullen & Bluett, now, since this change has been made recently here, and the other laydown is on the northwest corner at Swelldom. That is made with the Examiner, too.

Q. That is a store on the northwest corner?

A. That is a store, yes, sir.

Q. Those are your papers that you lay down on those corners? A. That is right.

Q. What profit do you get from those?

A. A cent and a half on the daily, and two cents on the Sunday. [1273]

(Testimony of John Francis Fields.)

Q. Then the Examiner hustler makes a two cent profit? A. That is right.

Q. We are talking about the daily?

A. That is right, the daily.

Q. Well, do you operate now at the Mullen & Bluett corner? A. No, I don't.

Q. Oh, you don't? Well, there——

A. I am on the Silverwood's side; that is, the northeast.

Q. The northeast. Is that the main spot?

A. Yes, sir.

Q. From whom do you buy the People's World?

A. I get the papers from the office.

Q. The office of the People's World?

A. The People's World.

Q. What do you pay for them?

A. One cent a copy.

Q. And is the general price five?

A. That is right.

Q. Do you keep the difference?

A. Yes.

Q. From whom did you used to get the Ham and Eggs?

A. It was delivered to the corner by some agent. I know the agent, but I can't recall the name.

Q. Was it a district man of the Times?

A. No. It was an agent from the Ham and Eggs direct. [1274]

Q. What is this Ham and Eggs paper that you mention?

(Testimony of John Francis Fields.)

A. Well, it mainly consisted of old age pension plan and gives different labor periodicals in it.

Q. What did you pay for that, Mr. Fields?

A. Three cents.

Q. And you would sell it for a nickel?

A. That is right.

Q. Retaining the difference?

A. That is right.

Q. The Socialist Call, do you still sell that?

A. Yes, sir.

Q. How do you get that?

A. Through the office of the Socialist Call.

Q. What do you pay for it?

A. Three cents.

Q. What do you sell it for? A. Five.

Q. How do you get the Jewish Forward?

A. I did originally—no, strike that. That is referring to another one.

I get that through the hustler at Fifth and Spring on the Herald.

Q. You get that from a Herald hustler?

A. That is right.

Q. Do you know the name of the hustler from whom you get [1275] them?

A. Yes. Harry Relis.

Q. Harry Relis, R-e-l-i-s?

A. That is right.

Q. That is the same man who was on the witness stand in connection with the Herald case?

A. That is right.

(Testimony of John Francis Fields.)

Q. What do you pay Mr. Relis for those?

A. Two cents a copy.

Q. And is that a nickel, too?

A. No, that is a three-cent paper.

Q. That is a three-cent paper.

Do you know what he pays for them?

A. No, I couldn't say.

Q. What do you do with your unsold copies on that?

A. Return them the next day—that is a daily.

Q. To Harry Relis?

A. That is right.

Q. With credit? A. That is right.

Q. Now, do you get the Jewish Voice from Harry Relis?

A. I do now. Originally I got them from the office.

Q. The office of the Jewish Voice?

A. That is right.

Q. And what do you pay for that? [1276]

A. Three cents.

Q. And does that sell for a nickel usually?

A. That is right. That is a weekly.

Q. Do you get returns? A. Yes.

Q. Do you know what Relis pays for them?

A. No, I don't.

Q. Do you know whether he pays a lesser sum for them than that at which he sells them to you?

A. I don't believe so.

Q. You don't know?

(Testimony of John Francis Fields.)

A. I couldn't say, no.

Q. You also sell the News?

A. That is right.

Q. Is that the Four Star?

A. No. I believe the earliest edition I get is the Six Star.

Q. And what time do you get that, usually?

A. Well, all the papers are turned over to me approximately at 7:00 o'clock by the Herald man—the Herald hustler.

Q. You get this News from the Herald hustler at about 6:00 P. M.?

A. That is the left-overs. In other words, for the day—for the day's sales.

Q. Oh, I see. I thought maybe you get an early morning edi- [1277] tion. A. No.

Q. That came out the night before?

A. No.

Q. Now, you make a profit on that News?

A. Yes.

Q. Of what?

A. A cent and a quarter.

Q. And you pay one and three-quarters cents?

A. That is right.

Q. To the News hustler, for it?

A. Yes.

Q. Do you know what he pays for it?

A. No, I don't.

Q. Now, do you make any profit on the Examiner? A. Yes. Two cents.

(Testimony of John Francis Fields.)

Q. Do you sell the Herald, the left-overs?

A. Yes.

Q. And do you make a profit on that?

A. No. That is—as I believe I stated before, that was an accommodation to the Examiner hustler, due to the fact that he handles the News for me, and I collect the profit.

Q. You made that arrangement yourself with the Examiner hustler?

A. That is right, yes. [1278]

Q. Do you sell any magazines?

A. Yes, I do.

Q. What ones, please? Post?

A. Well, I would like to say this in the statement: Until yesterday, I handled the Post, Look, Collier's and Liberty.

Q. Both Look, Collier's and Liberty?

A. That was until yesterday.

Q. And had you been handling those ever since you were on the corner?

A. Yes, I have.

Q. That is all the magazines you have ever handled? A. Correct.

Q. Since you have been on the Sixth and Broadway corner? A. Sixth and Broadway.

Q. Do you buy your Posts from Joe Woods?

A. No, I don't.

Q. Where do you get them?

A. The Herald man makes the arrangements just the same as he does with the News, leaves them over.

(Testimony of John Francis Fields.)

Q. Well, do you pay somebody for the Posts?

A. Yes, I pay the Herald man the following day.

Q. You get them on a Tuesday night?

A. That is right—a correction there. Wednesday night now. It is on Wednesday night.

Q. The Post is? [1279]

A. That is right.

Q. Does it come out on a Thursday now?

A. It is on Wednesday we get it, I mean. As far as I know, it always has been a Wednesday.

Q. You get the Post on Wednesday night?

A. Yes.

Q. And you pay for it on Thursday?

A. That is right.

Q. How much do you pay?

A. Three and a half cents.

Q. You pay that to the Herald man?

A. That is right.

Q. Is that a Herald hustler, or a Herald district man? A. Herald hustler.

Q. And you sell it for a nickel?

A. A nickel.

Q. How about Look?

A. I pay seven and a half cents. I make two and a half cents profit.

Q. You pay seven and a half, and you sell it for a dime? A. That is right.

Q. From whom do you purchase those?

A. The Herald hustler.

Q. And your Collier's?

(Testimony of John Francis Fields.)

A. Collier's I receive from Joe Woods on Thursday night. [1280]

Q. Do you pay him for them?

A. No, I don't.

Q. Do you pay him for them eventually?

A. I don't know. I am credited with t. m and I turn the receipts over to the Herald man on Friday. In other words, it is an arrangement understood that there will be ten Collier's left every Thursday night. For instance, we will say if I am left twenty nickel magazines—that is the way we class them; we don't class them separately—if I am left twenty nickel magazines on a Thursday, the full total would be thirty with the ten Collier's that is due Thursday night.

Q. Now, do you pay somebody for those?

A. Yes, I pay the Herald hustler.

Q. And what do you pay him?

A. Three and a half cents a copy. I make a cent and a half.

Q. Three and a half on the Collier's, and you sell it for a nickel? A. That is right.

Q. Does that same price arrangement prevail with reference to Liberty? A. That is right.

Q. You buy them for three and a half and sell it for five? A. That is right.

Q. I understand that until last night, at least, you have [1281] been selling all these magazines continuously? A. Yes.

Q. Since you started at Sixth and Broadway?

(Testimony of John Francis Fields.)

A. Yes.

Q. Do you recall again the evening that you first started selling at Beverly and Western? I believe you have testified that you were down to the concourse and talked to Bill Moore. A. Yes, sir.

Q. And were taken out to Beverly and Western?

A. Yes, sir.

Q. That was about September——

A. (Interrupting) September, I believe; somewhere in September, yes.

Q. September, 1938? A. Yes.

Q. How long did you talk with Mr. Moore on that particular evening?

A. Well, it was just a few minutes before we went to the corner, that I drove out to the corner.

Q. You drove out with Bill Moore, didn't you?

A. That is right.

Q. Did you talk to him on the way out, or at the concourse, or at both places?

A. At the concourse and also at the corner when I got out [1282] there. He gave me a reminder.

Q. About October or November, 1939, were you engaged in any other occupation than that of selling newspapers and periodicals?

A. No, I wasn't.

Q. You never had any other sort of job or calling for which you received compensation?

A. No.

Mr. Yoakum: That is all.

(Testimony of John Francis Fields.)

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Fields, approximately how many copies of all of these other publications other than the Times, and that includes magazines—— A. (Interrupting) Yes, sir.

Q. (Continuing) —do you on an average sell on a night?

Mr. Cosgrove: Are we now talking about Sixth and Broadway?

Mr. Mouritsen: Yes, Sixth and Broadway only.

The Witness: Well, it varies on each item. Would you want me to specify each item?

Q. (By Mr. Mouritsen) No. I mean group them all together, all these other publications other than the Times. I mean on an average, how many of those do you sell on a night?

Mr. Hall: You are referring to Sixth and Broadway, Mr. Mouritsen?

Mr. Mouritsen: Yes.

The Witness: Well, the total sale, I think, would be about [1283] thirty copies all together on everything I have.

Q. (By Mr. Mouritsen) That is, other than the Times? A. That is right.

Q. Now, how many copies of the Times do you sell there on a night?

A. Do I understand the question to be for the entire corner or for my side?

Q. Well, let's see. You have laydowns on two of the other corners, is that right?

(Testimony of John Francis Fields.)

A. That is right.

Q. Well, for the whole thing?

A. Between fifty and eighty, I should judge, so I would say about sixty-five average.

Q. And, Mr. Fields, has any one of these people who bring these other publications other than the Times ever furnished you with a change apron?

A. No.

Q. Have they ever furnished you with a rack?

A. No. Strike that out. Yes, that is a mistake there. I have been supplied with a rack.

Q. Do you call any of these other papers other than the Times? A. No, I don't.

Q. And do you carry any other paper other than the Times in your arms or hands? [1284]

A. Yes, the Examiner.

Q. And none of the other publications that you have enumerated, is that correct?

A. That is right.

Q. Now, did any of these people who bring these other publications ever tell you to check in others handling the same publication?

A. Yes. The People's World has instructed me. [1285]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 o'clock P. M.

Mr. L. B. Binford: Mr. Mouritsen, you yesterday furnished me with a photograph, Board's Exhibit

(Testimony of John Francis Fields.)

Number 11 for identification, which discloses a picture of a rack in the right side of the picture, and of another rack in the left side of the picture, and a box of some type in between the two racks, and asked me for a stipulation that such photograph showed racks of the type and kind furnished by Stockholders Publishing Company to hustlers and newsboys.

We will stipulate that the two racks shown are more or less typical of the racks used and furnished by the Stockholders Publishing Company to the newsboys and hustlers, particularly with respect to the capacity, but they are of various designs, but in general they represent the type of rack used.

Mr. Mouritsen: I accept the stipulation, and I offer the photograph in evidence as Board's Exhibit Number 11. [1286]

Bd's Ex - 11
admitted

NATIONAL LABOR RELATIONS BOARD
XXI-R-
CASE NO. 922, etc.
EXHIBIT NO. 11
IN THE MATTER OF Stockholders Publishing Co
DATE 6-20-40 Fields
DANIEL W. ROSS, OFFICER
BY Trayer

(Testimony of John Francis Fields.)

Recross Examination

Q. (By Mr. Yoakum) Where are the magazines that you sell kept?

A. Well, I keep the majority myself, and I leave one of each copy with the Examiner man on the other side, the Mullen & Bluett side.

Q. Are they in all cases what you might call lay-downs? A. Yes, sir. [1287]

Q. Do you have any people that purchase the paper from you that you might call your regular customers?

A. Yes, I have two or three.

Q. Do you ever extend credit to them?

A. Yes, I have done that.

Q. Some night they might not have a nickel handy, or any change, and you collect the next night?

A. That is right.

Q. Do you do that on your own initiative?

A. That is right. [1288]

Cross Examination

Q. (By Mr. Compton) Mr. Fields, I believe you testified that you sold certain Jewish language newspapers? A. That is right.

Q. Will you state how often those newspapers are published?

A. The Forward is published daily, and the Jewish Voice is a weekly.

Q. From whom did you get those papers?

A. Herry Relis at Fifth and Spring.

(Testimony of John Francis Fields.)

Q. Did he bring them to your corner?

A. No, I got them from him at the corner.

Q. You went up to his corner to get them?

A. That is right.

Q. And do you do that each day?

A. That is right.

Q. What time of the day, generally?

A. Around 5:00 o'clock. [1289]

Q. 5:00 o'clock in the afternoon?

A. In the afternoon, yes.

Q. And do you pay him for those papers?

A. That is right.

Q. Do you know whether or not he is a wholesaler of those papers?

A. No, I don't believe he is. He gets them from some distributor. They are left with him every day.

Q. Did he ever on any occasion deliver those papers to you? A. No.

Q. Do you get returns on those papers?

A. Yes.

Q. How do you handle that?

A. They are returned every day; that is, I mean the following day.

Q. The following day?

A. That is right.

Q. And where do you make those returns?

A. To Fifth and Spring.

Q. And what time do you start selling newspapers?

A. Approximately between 6:10 and 6:30, anyway; somewhere around that.

(Testimony of John Francis Fields.)

Q. And what do you do, go to your corner first?

A. No. I report—I pass Fifth and Spring. I have to come [1290] that way and I get the papers first and go to Sixth and Olive and report.

Q. And where do you pick up your returns?

The Witness: No, I believe what I did state was that the papers are returned the next day to Fifth and Spring.

Q. (By Mr. Compton) That is what I am asking you. When do you do that?

A. At 5:00 o'clock the next day.

Q. And when do you get the return to return them to the corner of Fifth and Spring?

A. Well, the unsold copies that I have with me I take home.

Q. You take home? A. That is right.

Q. You carry them home the night before, and bring them down the next day?

A. That is right.

Q. (By Mr. Hall) These Examiners that you sell at the cor- [1291] ner of Sixth and Broadway, you bought from an Examiner newsboy on the opposite corner, as I understand you; is that correct?

A. That is right.

Q. So that the financial dealings that you have with respect to the Examiners occur between you and this other newsboy, and not between you and any district man representing the Examiner; is that right?

A. That is right.

Mr. Hall: That is all.

(Testimony of John Francis Fields.)

Cross Examination

Q. (By Mr. L. B. Binford) Mr. Fields, I understand you testified this morning that you sold certain copies of the News, left-over copies, as they are sometimes called?

A. That is right. The leftover copies for the day.

Q. And from whom do you procure those newspapers? A. The Herald newsboy.

Q. Do you pay him for them the following day?

A. That is right.

Q. You are credited the following day?

A. That is right.

Q. You are credited the following day?

A. Yes.

Q. You do not have any dealings with the District man for the News? [1292]

A. No, I do not.

Cross Examination

Q. (By Mr. Yoakum) If one of these customers to whom you sold a paper on credit did not pay you for it, you would be obliged to pay the wholesale price of that paper to the district man?

A. Yes, I would. Not the district man. To the Herald man.

Q. Oh. They are the Heralds that you sell on credit?

A. Well, no, I wouldn't take the responsibility on the Herald because, as I believe I stated this morning, I do not receive any commissions from the

(Testimony of John Francis Fields.)

Herald; it is only an accommodation due to the fact that the Herald man takes the News on the other side to accommodate me. But if I credit a News or a magazine, I am fully responsible; in other words, I will lose the profits if the customer does not pay.

Q. If you should credit the Los Angeles Times, would that same situation be true?

A. Yes, that would be true, too. And likewise on the Examiner.

Mr. Yoakum: Nothing further.

Cross Examination

Q. (By Mr. Compton) Just a moment.

Mr. Fields, you just testified concerning the Herald man; do you mean by that a Herald hustler?

A. That is right, yes. [1293]

Q. You do not have any contact with any Herald district men, do you? A. No, I don't.

Q. You do not have any business dealings with them whatsoever? A. No, I don't.

Cross Examination

Q. (By Mr. L. B. Binford) Do you make any profit on the sale of the News?

A. Yes, I do.

Q. And you pay the boy you get them from the wholesale price? A. Yes, sir.

Q. And you make whatever profit you make from the sale of them? A. That is right.

Q. And that is between you and the newsboy?

A. That is right. [1294]

Mr. Mouritsen: Mr. Examiner, I will offer in evidence as Board's Exhibit No. 14 an agreed statement of facts signed by counsel for the Times-Mirror Company, the representatives of the Union and by myself, and Regional Director, which agreed statement of facts has reference to the operations of the Company so far as the jurisdiction of the Board over the operations is concerned.

Trial Examiner Kennedy: Is there any objection?

Mr. Cosgrove: No objection. [1295]

Trial Examiner Kennedy: Received.

MAX ROBERT DYER

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Dyer? A. 660 Third Avenue, Los Angeles.

Q. What is your business or occupation? [1296]

A. Circulation department circulator.

Q. For what paper? A. Times-Mirror.

Q. How long have you held that position?

A. Since I was about 14—about 24 years.

Q. As I understand, you are now a morning district man or district manager?

A. Morning district man.

Q. For that paper? A. Yes, sir.

Q. How long have you held that position?

(Testimony of Max Robert Dyer.)

A. The same length of time.

Q. With reference to the last year or two, will you please explain what your duties are in that position?

A. I get down to the office about 4:00, press time starts about 4:30, and take the first edition, go to Sixth and Main and there are about five boys waiting for the paper there, and to Sixth and Spring, and Sixth and Broadway, and Seventh and Spring, and then I go down Sixth Street around Seventh, down Eighth, back to Twelfth, and then back to Sixth and Broadway and Sixth and Main. I have news stands in the morning, too. I stop at cigar stands, hotels.

Q. You also give papers to hustlers: is that correct? A. Yes, sir.

Q. Or to newsboys? [1297]

Mr. Yoakum: The reference to time was morning time? 4:30 a. m.?

The Witness: A. M., yes.

Q. (By Mr. Mouritsen) After you make that first round, what do you do next?

A. We go back to the office.

Q. And do you make subsequent deliveries?

A. Six o'clock. You mean between that time?

Q. No. After that first delivery, what is the next delivery that you make?

A. 6:00 o'clock.

Q. And do you follow much the same procedure that you have outlined? A. Yes.

(Testimony of Max Robert Dyer.)

Q. Do you count out the papers to a number of the boys at, I believe you said, Fifth and Spring?

A. Sixth and Main.

Q. Sixth and Main.

Do you do that on your second round, or do you go to the corners?

A. No; I go to the corner.

Q. Then after that time, do you return to the Times' plant?

A. After I get through with taking the hotels and news stands, I return to the Times' plant and stay until 8:00 o'clock for a replate, if we have one. [1298]

Q. If you have a replate what occurs?

A. We take out papers again to the corners.

Q. And on this occasion do you take them to all of the individual corners, or do you have a group who receive them at some specified corner?

A. No. Each individual corner.

Q. Is that the last delivery you made during the day? A. Yes, sir.

Q. Do you collect from the newsboys to whom you take papers?

A. We collect at Sixth and Main.

Q. At every morning? A. Yes, sir.

Q. Do all the newsboys come to that corner?

A. Yes, sir.

Q. How does it happen that they come to that corner rather than that you go around to the corners?

(Testimony of Max Robert Dyer.)

A. Well, they have been doing it for 35 or 40 years and another thing, if I went around to their corners in the traffic, they would be losing an hour or an hour and a half. It is just more speed for theirself.

Q. How long does it take you to make this last coverage of your district as a general rule?

A. I should judge 50 minutes.

Q. And that is made at approximately what time? [1299]

A. I should judge about 6:20, according to—just a case if he has got a little more for the second edition or not, but you know the deadline is supposed to be 6:00 o'clock. But he might be 10 minutes late.

Q. And at what time do these boys check in in the morning?

A. Some start about 9:15; the other up to 10:00 o'clock.

Q. And you remain on the corner of——

A. Sixth and Main.

Q. Sixth and Main.

All of that while they check in; is that correct?

A. Yes.

Q. About what time did you generally reach the corner for the purpose of checking the newsboys in?

A. About that time.

Q. In what area do you, as district man, operate?

A. From Sixth—I take in—well, we have a de-

(Testimony of Max Robert Dyer.)

livery boy taking the Fifth Street boys, and I check in them hustlers and then from Fifth to Twelfth, and then Broadway to Central.

Q. And approximately how many newsboys do you deliver papers to in that area?

A. I should judge 31 to 33.

Q. Do you have pretty much the same set of newsboys all the time, or is there a turnover in the——

A. Well, there is no turnover the last year and a half or [1300] two years, outside of maybe I should check one or two corners.

Q. And these men to whom you supply the papers, are they in general older, more mature men, or are they boys?

A. No boys at all; all old men; I should judge 50 up.

Q. Do you have an established order for the number of papers you receive on the first edition that you take out at about 4:30, I believe?

A. Yes, we have an established order. But on the second order I do not have an established order. According to what——

Q. On the first one, however, it is established?

A. Yes, sir.

Q. You make your rounds and put those papers out; is that correct? A. Yes.

Q. Do you put them all out or do you bring returns to the Times from that first order?

A. No.

(Testimony of Max Robert Dyer.)

Q. Is that order from time to time raised—you get a good headline or good news story?

A. Yes, sir.

Q. Who raises that order? A. I do.

Q. And it is your practice not to bring any papers back [1301] to the plant after the first round; is that correct? A. Yes, sir.

Q. When you order extra editions of the paper over and above your established order, how do you parcel those out; that is, the extra papers out to the newsboys? A. According to the headlines.

Q. I see.

According to what you think of how good the headline is; is that correct?

A. Yes, sir. We do not vary a hundred papers a day throughout the year unless there is something that is—something sensational, or something.

Q. Such as the outbreak of war, or something like that, is that correct? A. Yes, sir.

Q. And then you vary more than a hundred papers? A. Yes, sir.

Q. And on occasions such as that when you get a good headline you parcel those papers out to the newsboys; is that correct? A. Yes, sir.

Q. Now, at what price do you furnish the week-day copies of the Times to the newsboys within your district? A. Three cents.

Q. Is that a price established by the paper, by the [1302] Times?

A. Yes, sir, by the Times.

(Testimony of Max Robert Dyer.)

Q. And at what price do the newsboys sell the paper?

A. They sell it for five. They make a two-cent profit.

Q. And the five-cent price is also established by the paper? A. Yes, sir.

Q. Now, in the last year or two have you put any newsboys on any of the spots in your district?

A. There has been about two spots, Seventh and Los Angeles, there will be some hustler come down and ask if he can sell papers and I tell them how many they can sell down there, and then maybe the next morning he won't be back on account of the corner won't warrant it. Outside of that it has been very nearly 100 per cent the last year.

Q. On those occasions that you have put new boys on, have you told them where they are to check in in the mornings? A. Yes.

Q. And that is at Sixth and Main; is that correct? A. That is right.

Q. And have you told them where they are to receive the first editions of the paper?

A. No, because they will be at the spot and they will come up to ask you, that they want to sell at Sixth and Main. [1303]

Cross Examination

Q. (By Mr. Yoakum) You sell only the morning editions of the Times to the boys?

A. Yes, sir.

Q. You sell to about 33 boys?

(Testimony of Max Robert Dyer.)

A. Yes, sir. [1304]

Q. How many of the boys or hustlers congregate at Sixth and Main to receive the first edition?

A. I think around five.

Q. About five? A. Yes, sir.

Q. Do you tell them to congregate at that spot?

A. No; because it is the speed that is for them.

Mr. Mouritsen: I move to strike all of the answer after the word "no."

Mr. Cosgrove: No objection.

Mr. Yoakum: That may be stricken.

Q. (By Mr. Yoakum) The answer is you do not tell them to congregate at that spot? A. No.

Q. Do you know where the hustlers sell who congregate at that spot? [1305]

A. Yes, sir.

Q. Will you state their corners?

A. Sixth and Main, the P. E. Depot——

Q. The P. E. Depot, will you state where that is with reference to Sixth and Main?

A. That is south of Sixth and Main.

Q. About 100 yards?

A. Well, I should judge about a hundred yards.

Q. Not any more than a hundred yards?

A. And Sixth and Spring.

Q. Sixth and Spring?

A. And Sixth and Broadway.

Q. Sixth and Broadway?

A. And Seventh and Main.

Q. Seventh and Main. It is a fact, is it not, that

(Testimony of Max Robert Dyer.)

all of those corners which you have mentioned are within three blocks or less of Sixth and Main?

A. Yes, sir.

Q. Do you know why the hustlers come to Sixth and Main? Just answer yes or no. Do you know why they come there? A. Yes. [1306]

Q. (By Mr. Yoakum) I will ask you if it isn't a fact that they can get their papers earlier and be on their spot sooner by coming to that location than if they wait for you to deliver them to their various spots. [1307]

The Witness: Yes, sir.

Q. (By Mr. Yoakum) The men that wanted to have the papers left at their spot have them left there by you? A. Yes, sir.

Q. Do any of the hustlers pay in advance for the papers? A. No, sir.

Q. If they paid in advance for their papers, would there be any occasion for them coming to Sixth and Main at around 9:15 or 10:00 in the morning?

The Witness: No.

Q. (By Mr. Yoakum) The only reason they come there, in so far as you are concerned, is to pay for the papers you have let them have?

A. Yes, sir. [1308]

Q. After they have received some copies of the first [1309] edition, do you then go back over the territory to see if they want additional copies?

A. No.

(Testimony of Max Robert Dyer.)

Q. You don't? A. No.

Q. You go back to the concourse and get the second edition? A. Yes.

Q. Well, you ascertain before going back, do you not, how the first has been going?

A. Well, I know about how they will go because there is no sale of the first, because we hit the street at 6:30 and there is nobody on the street. Like when the stock market opens up a little earlier, I take more on the first.

Q. On the second edition you have a variable order?

A. Yes, according to what the news warrants.

Q. When you get down to a corner for making delivery of your second edition, does the hustler ever tell you how many he wants? A. Yes.

Q. Do you give him the number he requests?

A. Yes.

Q. Do you ever require him to take more than he asks for?

A. No, because I generally know what the spot will do.

Q. You mentioned in your previous testimony that frequently hustlers ask to operate at 7th and Los Angeles, and that you [1310] will tell them how many they can sell. A. Yes.

Q. Will you please state what you mean by the expression you will "tell them how many they can sell"?

A. I won't tell them but I give them the papers

(Testimony of Max Robert Dyer.)

—they only get five or six and the corner will never run out with that.

Q. Do you mean by that expression that you know approximately what the corner will do?

A. Yes.

Q. You don't mean by it that you are telling the hustler that he cannot sell any more than that number?

A. No. If he can sell four, there is no use giving him 50.

Q. But if he could sell 50, would you furnish them?

A. He would get 50, yes, sir.

Q. Do the hustlers pay you for all copies delivered to them except the ones they return?

A. Yes, sir.

Q. Do they pay you if they lose any copies?

A. No, sir.

Q. I beg your pardon? A. No, sir.

Q. If you deliver a hustler 10 copies of the Times and at the check-in hour he appears with no papers and tells you that he has lost them all, is he required to pay nothing? [1311]

Mr. Mouritsen: Just a minute. I object to that as already asked and answered.

Mr. Yoakum: Well, I submit we are certainly entitled to have an explanation of this answer of the witness to find out just—it was answered all right, but we want to find out if he understood the question and if I understood his answer. We may be talking about two different subjects here.

(Testimony of Max Robert Dyer.)

Mr. Cosgrove: Certainly no harm can come from making the matter clear. I am astonished that the Board's attorney would want to prevent the witness from making a matter clear. I think, myself, there is a misunderstanding here.

Mr. Mouritsen: I will withdraw the objection, Mr. Cosgrove.

Trial Examiner Kennedy: You may answer it.

Mr. Yoakum: Read the question.

(The question referred to was read by the reporter, as set forth above.)

The Witness: He pays for them. [1312]

Q. And I will ask you again, if he had lost copies must he pay you for them?

A. Yes, sure.

Q. If he has any stolen from him, is he obliged to pay you? A. Yes, sir.

Trial Examiner Kennedy: Have you had experience like that when they reported the papers lost or stolen?

The Witness: No, not in the morning. Just like I say, [1313] maybe there would be 48 in the bundle on account of the machine count or something.

Trial Examiner Kennedy: Then how do you get an answer to that question if you haven't had any experience as to it? It has never happened to you: is that right?

The Witness: Yes, sir.

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Dyer, I believe

(Testimony of Max Robert Dyer.)

you stated that the boys from Sixth and Main, the P. E. Depot, Sixth and Spring, Sixth and Broadway, and Seventh and Main, receive their first edition at Sixth and Main; is that correct?

A. Sixth and Main, yes, sir.

Q. Now, if those boys did not come to Sixth and Main it would be necessary for you to make five stops to deliver papers to those boys; isn't that correct? A. Yes, sir.

Mr. Yoakum: Now, just a minute. There is two of them right there, right at Sixth and Main. Pardon the interruption.

Q. (By Mr. Mouritsen). And that naturally would take more [1314] of your time to make five stops than it would to make one stop; isn't that correct? A. Yes.

Q. You couldn't make your rounds with the first edition so quickly if you had to make, say, four additional stops? A. No, sir.

Q. Now, if one of these boys did not come to Sixth and Main and pay you for the papers he had received, would you get somebody else to cover his spot?

A. No, sir, not if he showed up the next morning.

Q. Have you ever explained that to any of the boys who come to Sixth and Main?

A. About not showing up? We have only experienced two in the last year and a half that way.

Q. I see.

(Testimony of Max Robert Dyer.)

Well, let me ask you this: If a boy did not pay you for the papers that he had delivered to him, would you get somebody else to cover the spot?

A. I wouldn't sell him any more papers.

Q. Now, I believe you stated, Mr. Dyer, that your second order depended upon what the news warranted; is that correct? A. Yes.

Q. Now, who makes that determination of what the news warrants? [1315]

A. No. I thought you meant by me giving him the order. I determine the order from what it warrants myself.

Q. Oh, I see. You determine the amount of that second order? A. Yes, sir.

Q. Do you in making your delivery deliver all of this second edition to the boys on the corners?

A. Outside of Fifth Street.

Q. Outside of Fifth Street?

A. Yes, sir. [1317]

Q. You do not bring any back to the plant?

A. No.

Q. You put all of those papers out; is that it?

A. Yes, sir.

Q. Give them to the newsboys?

A. And stands.

Q. And stands? A. And hotels.

Q. And when you testify that Mr. Ryser determined the amount of that second order, you want to change that, or you misunderstood me?

(Testimony of Max Robert Dyer.)

A. I misunderstood you——

Q. You determine it?

A. I determine the order and give it to him.

Cross Examination

Q. (By Mr. Yoakum) Do you pay any money to any of the hustlers in your district?

A. No, sir.

Q. Do you pay them anything of value?

A. Nothing. [1318]

Q. On the second edition the papers are delivered to each of the corners, are they not?

A. Yes, sir.

Q. None are delivered to Sixth and Main except those for the boy at Sixth and Main in the P. E. Depot? A. Yes, sir.

Mr. Hall: Will it be stipulated that the testimony of Max Robert Dyer has no application to the Los Angeles Examiner case?

Mr. Mouritsen: It may be so stipulated.

Mr. Compton: The same stipulation for the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So stipulated.

Mr. L. B. Binford: And the same stipulation for the Stockholders Publishing Company, the News?

Mr. Mouritsen: So stipulated. [1319]

ALBERT NATHAN

called as a witness on behalf of the Times-Mirror Company, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. And by whom are you employed?

A. The Los Angeles Times.

Q. In what capacity?

A. Editorial department, reporter, newspaper reporter.

Q. And have you had occasion during—how long have you been employed by the Times?

A. 28 years.

Q. Have you had occasion during the past several years to [1321] confer with the office of Cosgrove & O'Neil, and Hunsaker, Britt & Cosgrove, with reference to legal matters? A. Yes.

Q. And have you had some conference in connection with this hearing? A. Yes.

Q. You were present, I believe, in the court room and in attendance upon the hearing at the time that Mr. Marx testified? A. I was.

Q. And you have known Mr. Marx for some time? A. Yes.

Q. That is Mr. Ray Marx, Raymond F. Marx?

A. Yes.

Q. You were also here when Mr Cohen testified?

A. Yes.

Q. Were you here when I made a statement with reference to the preparation of a list of newsboys?

A. Yes.

(Testimony of Albert Nathan.)

Q. What, if anything, did you have to do with the preparation of the list, Mr. Nathan, and I will ask you to examine a copy of the list which at this time we would like to have marked Times Exhibit No. 6 for identification.

A. I was requested to have this list prepared, by your office. [1321]

Q. When?

A. Around the 1st of May, of this year.

Q. All right.

A. I transmitted that request to Mr. Ray Marx, circulation manager of the Los Angeles Times, and Mr. Jerry Cohen, and requested them to call a meeting of the district men, which was called. Forms were prepared. I addressed the district men and asked him to get the names of the boys to whom they sold papers.

Q. And to furnish that list to you?

A. And to furnish that list to Mr. Jerry Cohen, who in turn furnished it to Mr. Ray Marx, who in turn gave it to me, who in turn gave it to you.

Q. Now, did that request suggest that in addition to getting the names that they furnish you with the place or the location where the boys sell the Times? A. Yes, sir.

Q. Now, the papers that you turned over to my office were in the original handwriting of the district men? A. They were.

Q. And the typing, so far as you know, was done in my offices? A. Yes, sir.

(Testimony of Albert Nathan.)

Mr. Cosgrove: We will offer the list. I don't know whether you want it as a Board number or a Times number. [1322]

Trial Examiner Kennedy: Board's Exhibit No. 6 for identification. Any objection?

Mr. Cosgrove: That is Times' Exhibit No. 6 for identification.

Trial Examiner Kennedy: I am sorry. Times' Exhibit No. 6 for identification. Any objection?

Mr. Mouritsen: No objection.

Trial Examiner Kennedy: Received in evidence.

(Thereupon, the document referred to was received in evidence and marked Respondent Times' Exhibit No. 6.)

Trial Examiner Kennedy: Is that all, counsel?

Mr. Cosgrove: If I may have just a moment.

Trial Examiner Kennedy: Oh, pardon me.

Mr. Cosgrove: I think this ought to be disclosed for the record. This list, of course, was prepared by the district men. How many district men are there, do you remember?

A. Some 22, I believe, men, all together. I believe there is 12 or 14 districts. I have forgotten exactly.

Q. Now, this petition in this case is confined to the city of Los Angeles and Glendale, but are these district men confined in their operations to those two cities or do they take in outside territory?

A. They are not confined to those two districts. [1323]

(Testimony of Albert Nathan.)

Q. In other words, this list is a list of all the newsboys that sell the Los Angeles Times in these 22 or 23 districts, regardless of the territorial limitation of the cities of Glendale and Los Angeles?

A. That is correct. There are 22 or 23 district men, and I think 12 or 14 districts, and this comprises all of those.

Q. Do the districts stop when you hit the city limits, or do they lap over from one city to another?

A. In many cases they lap over. [1324]

Q. In the preparation of Times' Exhibit 6, it contains the names of all newsboys who sell the Times, I believe you testified——

A. It might be——

Mr. Cosgrove: May I make a statement there that may prevent some confusion? I think that there has been in my questions, and perhaps in the answers, a statement that warrants the question the attorney for the Board is now asking, but this list, of course, is only a list of the newsboys that are serviced by the district men.

Now, of course there are newsboys that work for these carriers, independent operators that sell the Times, and they are not involved in your case and they are not in this list. These are only hustlers, as we call them, fellows that deal with the district men and not the men that work for these independent operators that buy a large number of papers and have school boys deliver the papers on their routes. [1326]

(Testimony of Albert Nathan.)

Mr. Mouritsen: Yes. And the Times' Exhibit 6 does not contain any segregation as to boys who sell on week days or boys who sell on Sundays; is that correct—or, the Sunday editions of the paper?

Mr. Cosgrove: No. No. It is the boys who are serviced by the district men and if they sell three days a week or five days a week, or one day a week, they are listed. I thought that was what you wanted—the name of every boy? I guess that is what we have got. [1327]

Q. (By Mr. Cosgrove) In other words, from the information that we gathered, if the Board desired, or the Examiner desired to know whether any of these boys sold any other newspaper in addition to the Times, we could find it out from the report that the district managers gave us?

A. Assuming the boys told the truth.

Q. Well, of course, we have to rely on what the boy said for the name and the other information?

A. That is correct. [1329]

(The document referred to was received in evidence and marked Board's Exhibit No. 15.)

(Testimony of Albert Nathan.)

BOARD'S EXHIBIT No. 15

Los Angeles Newsboys—C.I.O.—Local Industrial Union No. 75

Secretary, Arthur Page
Room 304—Currier Building
212 W. 3rd St.—Los Angeles
Phone MUtual 5747
(Allied Printing Trades Council Label, No. 111)

June 29, 1939

Mr. Norman Chandler
Los Angeles Times
Los Angeles, California

Dear Sir:

You have refused to bargain with us.

The Newsboy's Union is requesting a meeting for the purposes of bargaining on our demands before 2 PM, Wednesday, July 5.

We shall be glad to meet with you for this purpose before that time. If you will not meet with our committee, we shall be forced to take such action as is necessary to protect our members.

Sincerely yours,
NEWSBOYS' L. I. UNION #75.
CIO

.....

ART PAGE, Sec.

RETURN RECEIPT

Received from the Postmaster the Registered or

(Testimony of Albert Nathan.)

Insured Article, the original number of which appears on the face of this Card.

MR. NORMAN CHANDLER
(Signature or name of addressee.)
By JAMES THOMAS
(Signature of Addressee's Agent.)

Date of delivery Jun 30, 1939.

Post Office Department—Official Business.

Registered Article—No. 210474 Insured Parcel.

No.....

Return to News Boys Local Industrial Union.
(Name of Sender)

Street and Number, or Post Office Box—212 W 3rd St Los Angeles, California.

ROY ELEY

recalled as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified further as follows:

Direct Examination

Q. (By Mr. Mouritsen) Mr. Eley, I believe you testified when you were on the stand on another occasion that you held at one time the position of acting secretary of the Newsboys Union.

A. That is right.

Q. And during what period was that?

A. From October 14, 1939, up until the first Sunday of January, 1940, either the 6th or the 7th. I can't remember the exact date.

(Testimony of Roy Eley.)

Q. Mr. Eley, have you ever held any—have you ever acted on any committees of the union?

A. On any committees?

Q. Yes. [1331] A. Yes.

Mr. Compton: Mr. Eley, will you please speak up so I can hear you?

The Witness: I will.

Q. (By Mr. Mouritsen) Will you please state on what committees of the union you have acted?

A. I have acted on the organizing committee and at the present time on the Labor Board Committee, and on several of the minor committees just for a couple of days or something, some special happening.

Q. As a member of the Labor Board Committee, have you made any investigation regarding the numbers of newsboys who sell the Los Angeles Times within the city limits of Los Angeles and Glendale, California? A. I have.

Q. Will you state what that investigation has consisted of?

A. That investigation has consisted of me riding around visiting every corner in the city of Los Angeles and Glendale where to the best of my knowledge newspapers are sold.

Q. And did the investigation include the boys who sold at night, sold the Times at night within those areas?

A. By that you mean newsboys?

Q. Newsboys. A. Yes. [1332]

Q. And did it include an investigation of the

(Testimony of Roy Eley.)

boys who sell in the earlier—in the morning hours?

A. It did.

Q. And within those areas?

A. Yes, sir.

Q. Now, can you tell us approximately how many newsboys there are selling the Los Angeles Times within the city limits of Los Angeles and Glendale, California, excluding temporary newsboys, casual newsboys, and newsboys who sell only Sunday copies of the Times?

Mr. Cosgrove: We object to the question on the ground that no proper foundation for it has been laid. I mean by that, among other things, that there is no disclosure by the testimony thus far of the manner in which he determined, or his ability to determine whether a boy is a temporary boy or a casual boy or selling only on Sundays.

Trial Examiner Kennedy: I will sustain the objection. [1333]

Mr. Cosgrove: I think the pleader is entitled to ask a witness a question, if the witness is otherwise qualified to answer, upon an assumption that a certain word means a certain thing, and if Mr. Mouritsen desires to ask a witness questions, how many newsboys in Los Angeles selling the Los Angeles Times, excluding casual newsboys, and assuming that "casual" means such and such and then and there stated, if the witness is otherwise qualified to answer the question, I think that it is quite proper practice.

At least, I have often seen it done, and I think

(Testimony of Roy Eley.)

for the consideration of all that if Mr. Mouritsen would prepare an exact statement of what he claims the word means, then ask his questions, ask the witness to assume it does mean that, if the witness is otherwise qualified I wouldn't think I would have a valid objection.

Trial Examiner Kennedy: Another possibility is an amendment of the petition to specify or to define the terms. That can be done if the petitioner wants to do so. So what is your pleasure, gentlemen? Do you want to go ahead and take testimony or what? [1345]

Friday, June 21, 1940.

Met, pursuant to adjournment, at 10:00 o'clock a. m. [1348]

Mr. Mouritsen: Mr. Examiner, in attempting to define the terms used in the appropriate unit set out in Board's Exhibit 1-P, with reference to the Times-Mirror Company, we encountered considerable difficulty and in order that the Union's position may be made more clear and definite with reference to the men who it claims are within the appropriate unit it desire to move to amend its amended petition; that is, Board's Exhibit 1-P, so that the appropriate unit claimed is set out as follows:

"All newsboys engaged in the street sale of the Los Angeles Times at established spots four or more hours per day, five or more days per week, within the city limits of Los Angeles and Glendale, Cali-

fornia, except temporary newsboys and the definition of an 'established spot' is that an established spot is a place where a newsboy has engaged in the street sale of the Los Angeles Times five or more days a week for a period of six consecutive months or more. The 'temporary newsboy' is defined as a newsboy who has engaged in the street sale of the Los Angeles Times at an established spot for 30 days or less."

Trial Examiner Kennedy: That is the complete statement of the amendment to the petition? [1350]

Mr. Mouritsen: Yes.

Trial Examiner Kennedy: Is there any objection. [1351]

Trial Examiner Kennedy: You do not oppose it?

Mr. Cosgrove: We do not oppose it. And I make that statement so that if our responses to requests for data are made haltingly and with some distressing or embarrassing delay in time that counsel will know we have not prepared for this petition as now proposed in the amendment, but have prepared for something that I think is exceedingly quite different. [1352]

Trial Examiner Kennedy: The question now arises in my mind whether or not an amendment can be made. Do you see any authority for it in the rules? I haven't been able to discover anything. It is distinctly provided in Section 5, I believe it is—no, Section 4 of Article III that motions to dismiss petitions and requests for withdrawals of petitions shall be referred to the Board for appropriate ac-

tion. Now, that is the closest I find in the rules to anything concerning amendments to petitions. I realize that I have already permitted amendments to these petitions and I am wondering if that is proper. [1353]

Trial Examiner Kennedy: Will the same result be accomplished by denominating your statement as a bill of particulars rather than an amendment to the petition?

Mr. Cosgrove: We wouldn't agree to that, Mr. Examiner. We don't oppose the amendment, but I think it is not a bill of particulars. I think it really is a substantial—has the Commissioner had the privilege of examining the proposed amendment, a copy of it? [1354]

Trial Examiner Kennedy: Well, the proposed amendment, so-called, does not expand the scope; it rather contracts it; it that correct?

Mr. Cosgrove: Yes, sir, that is correct. I think there is no doubt about that, Mr. Examiner.

Trial Examiner Kennedy: I am not going to receive the proposal as an amendment to the petition, and if I am wrong on that of course the Board can correct that ruling when it reviews this case. However, I will receive the proposal as a statement of particulars, a bill of particulars or a clarification [1359] of the position of the petitioner, and inasmuch as it is agreed that it is not an expansion of the petition but, rather, a contraction of it I cannot see that anyone is to be prejudiced.

Mr. Binford: Mr. Mouritsen, early in these pro-

ceedings there was a stipulation entered into between you and the Stockholders Publishing Company respecting the second amended petition. Subsequent thereto a further amendment was made by the Union to the second amended petition by which the words "main spot newsboy" were stricken from the petition. May I now ask if it is understood, and if you will stipulate that all motions and answers and all objections and stipulations entered into in the proceedings with the Stockholders Publishing Company and the Board and yourself shall be deemed to apply and be applicable to the second amended petition as amended?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: May we have that same stipulation, Mr. Mouritsen?

Mr. Mouritsen: With reference to the Evening Herald and Express, yes.

Mr. Cosgrove: Through the Examiner may I ask counsel for the Board, in the light of the Examiner's ruling——

Trial Examiner Kennedy: Proceed.

Mr. Cosgrove (continuing): ——if it will be stipulated [1360] that the purpose of the statement which the Examiner has received is to limit and narrow the issue as presented by the amended petition?

Mr. Mouritsen: Yes, that may be so stipulated.

Mr. Hall: What number will this be given, Mr. Mouritsen, this paper that has been handed to us?

Mr. Yoakum: It was read in.

Mr. Hall: Oh, it was read into the record.

the witness on the stand at the time of adjournment, having been previously duly sworn, resumed the stand and further testified as follows:

Direct Examination (Continued)

Q. (By Mr. Mouritsen) Mr. Eley, how long have you been a member of the Newsboys Union?

A. Since February of 1939.

Q. And since that time have you attended the general membership meetings of the Union?

A. Yes, sir.

Q. Have you attended all of them?

A. All with the exception of one, I think. [1361]

Q. (By Mr. Mouritsen) From time to time while you have been a member have there been any meetings of what might be termed the Times unit within the Union?

The Witness: Yes. [1362]

Q. (By Mr. Mouritsen) Well, Mr. Eley, have you attended any meetings of the union—not general membership meetings—at which newsboys who handle the Times were primarily present? [1364]

A. Yes.

Q. And have you attended a number of such meetings? A. Yes.

Q. Approximately how many during the period that you have been a member of the Union?

A. Well, that would be—starting from February would be, let's see, February, March, April, May,

(Testimony of Roy Eley.)

June—five—twelve—I would say approximately sixteen or seventeen.

Q. And have you observed the characteristics of the men present who handle the Times?

A. Yes.

Q. Have you discussed with them the times that they have handled the Times?

A. I didn't understand that.

Trial Examiner Kennedy: Read the question.

(The question referred to was read by the Reporter as set forth above.)

The Witness: Yes, sir.

Q. (By Mr. Mouritsen) And other matters respecting their operations with the Times?

A. Yes, sir. [1365]

Q. (By Mr. Mouritsen) What in general are the ages of these men who handle the street sales of the Times? [1366]

The Witness: Well, I would say that they are of mature age, all mature men, that is, men who had reached their majority or better. [1367]

Mr. Mouritsen: Well, Mr. Examiner, just to be certain, that this matter has been covered, I will offer to prove through this witness, and would prove if permitted by the Examiner, that the men claimed to be within the appropriate unit are men of mature age and do not include but with few exceptions younger boys or school boys.

Mr. Cosgrove: Well, we will stipulate you have already proved it. [1371]

(Testimony of Roy Eley.)

Q. Now, can you tell us whether or not, Mr. Eley, the men who are claimed to be within the—the newsboys who are claimed to be within the appropriate unit are dependent upon their handling of the Times for their livelihood?

The Witness: Yes. [1372]

Mr. Hall: Will you stipulate that the testimony of Mr. Roy Eley given during his last appearance on the stand has no application to the Los Angeles Examiner case? [1386]

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: The same stipulation with reference to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: It may be so stipulated.

Mr. Binford: And the Stockholders Publishing Company, Inc.?

Mr. Mouritsen: That may be so stipulated. [1387]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 2:30 o'clock p. m.)

ROY ELEY

recalled as a witness by and on behalf of the National Labor Relations Board having been first duly sworn, was examined and testified as follows:

Direct Examination

(Continued)

Q. (By Mr. Mouritsen) Have you ever held a

(Testimony of Roy Eley.)

—have you ever acted on the Organizing Committee of the Newsboys Union? A. I have.

Q. And when did you first start to act on the Organizing Committee?

A. The fore part of August, 1939. I believe the appointment was made the first Sunday in August.

Q. Did you hold any position on the Committee other than committee member?

A. After the committee was set up, I was made chairman of that committee.

Q. And how long did you continue to act as chairman of that committee?

A. Well, I acted through until the forepart of January, 1940. [1389]

Q. Now, while you were chairman of that committee, do you know of any efforts made by that committee to organize Times newsboys other than in the cities of Los Angeles and Glendale, California? A. None.

Q. (By Mr. Mouritsen) And were any attempts made by the Union, other than the Organizing Committee, to organize the Times newsboys other than in those districts? A. No.

Q. Do you know who undertook the organization work in Glendale? A. Yes.

Q. Who did? A. I did. [1390]

Q. (By Mr. Mouritsen) Now, what work did you do with reference to this organization work?

A. Well, I of course was, you might say, personally acquainted with all or practically all of the

(Testimony of Roy Eley.)

hustlers working [1391] in Glendale, through personal contact, especially of the Times, and whenever the opportunity presented itself, why, I talked unionism to those different members and asked them to join our organization.

Mr. Hall: Will it be stipulated that the testimony of Roy Eley during his last appearance upon the stand has no relation to the Los Angeles Examiner case?

Mr. Mouritsen: It may be so stipulated.

Mr. Compton: The same stipulation with the Los Angeles Evening Herald and Express, Mr. Mouritsen?

Mr. Mouritsen: It may be so stipulated.

Mr. Binford: And as to the Stockholders Publishing Company, Inc., Mr. Mouritsen?

Mr. Mouritsen: That may be so stipulated. [1392]

In the meantime perhaps we could proceed with another matter, and that is that the Union has a number of authorization cards that it is prepared to exhibit to the Examiner with reference to its claims to represent these newsboys.

Trial Examiner Kennedy: Are those cards the same ones that have been used before?

Mr. Mouritsen: No, sir, Mr. Examiner.

Trial Examiner Kennedy: A different group?

Mr. Mouritsen: These are authorizations from Times newsboys. [1393]

Trial Examiner Kennedy: Very well. I have been handed a group of cards reading as follows: "Card of authorization. Date, blank. I hereby designated and select the Newsboys L. I. Union No. 75 C.I.O. to represent me for purposes of collective bargaining with respect to rates of pay, wages, commissions, pensions, hours of [1396] employment and other conditions of employment." Blank for signature; blank for address. "I sell papers for: blank and blank. I understand that the above information is to be used in connection with Labor Board cases."

I will now proceed to compare the signatures on these cards with Times Exhibit 6.

EDWARD PATCH

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and testified further as follows:

Direct Examination
(Continued)

Q. (By Mr. Mouritsen) Mr. Patch, are you a Times newsboy? A. I am.

Q. Where do you operate? [1397]

A. In front of the Biltmore Hotel.

Q. How long have you operated at that spot?

A. About five to six years. [1398]

Q. (By Mr. Mouritsen) Mr. Patch, will you explain the manner in which you operated in 1935 on this spot?

(Testimony of Edward Patch.)

A. Well, I was standing in front of the Biltmore, selling papers the same way I am today, since 1935.

Q. (By Mr. Mouritsen) And in 1935 did you receive your papers from the Times district man?

A. I did.

Q. Did you remain on that corner a certain number of hours per day?

A. I did. [1404]

Q. And at the present time do you remain on the corner approximately those same hours?

A. Well, I come to work a little earlier now than I did in 1935.

Q. And other than your coming to work a little earlier have there been any other changes in the manner in which you operated in 1935 and the manner in which you operate at present?

A. Not a bit.

Q. Now, in 1935 did you or did you not receive a check from the Times for selling newspapers?

A. I received a bonus check, what they call.

Q. (By Mr. Mouritsen) About when did you commence to receive that check, Mr. Patch?

A. When I first started to work for the Times.

Q. And when was that, approximately? [1405]

A. About 1934, in about April or May—April or May.

Q. And did you start to receive the check at or about that time? A. I did.

Q. Did you have any conversation with anyone regarding that check?

(Testimony of Edward Patch.)

A. Not until I started working.

Q. Well, about when did you have a conversation regarding that check?

A. 1934.

Q. Can you fix it more specifically than that during the [1406] year 1934?

The Witness: I did. I think I said in April, 1934.

Q. And do you recall the name of the district man with whom you talked?

A. Yes. Lee Morrow.

Q. Now, would you state what Mr. Morrow said to you and what you said to Mr. Morrow?

A. Well, I was standing in front of the Pacific —I mean the Subway Terminal Building. He asked me if I wanted to go to work. He said he seen me around a couple of times and I said, "Where?" Well, he told me where it was. He says I would find ten papers lying down there and I would get a 50-cent check per day.

Q. Did he say anything further at that time, do you recall? A. No.

Q. And did you go to work at the spot he designated? A. I did. [1407]

Q. And did you do anything at that spot other than sell the papers?

A. I didn't do anything else.

Q. And what papers were those?

A. Los Angeles Times.

Q. And after that time did you receive the 50

(Testimony of Edward Patch.)

cents per night that he had indicated you would receive? A. I did.

Q. And how did you receive that?

A. In a pay check.

Q. How often? A. Every week.

Q. Prior to that time did you receive another or different spot? A. I did.

Q. And what spot was that?

A. Seventh and Broadway.

Q. How long did you remain there?

A. About five or six months, more or less.

Q. During the period you were on Seventh and Broadway did you receive a check? [1408]

A. I did.

Q. And it was in what amount?

A. Around $7.00—seven and a quarter, ten and a quarter.

Q. (By Mr. Mouritsen) Well, I mean for what period of time would the $7.00 to $10.00 be?

A. It all depended on the amount of papers I sold, and so I couldn't tell you.

Q. Did you receive these checks from the Times?

A. I did.

Q. Were you transferred to another spot after that? A. I was.

Q. To what spot?

A. The Biltmore Hotel.

Q. And approximately when?

A. In 1934—no, in 1935—1935, I think it was—1935; close to September.

(Testimony of Edward Patch.)

Q. And during that period while you were on the Biltmore spot in 1935 did you receive a check?

A. I did.

Q. From the Times? A. I did. [1409]

Q. Did you do anything other than sell papers for that check? A. No.

Q. Did you receive a check during the year 1936 from the Times?

A. No, I don't recall.

Q. Did you ask that the check be discontinued?

A. I didn't.

Q. Who discontinued paying the check, if you know? A. The Los Angeles Times.

Mr. Mouritsen: You may inquire.

Mr. Cosgrove: For the purpose of the record, Mr. Examiner, at this time we will move to strike out all of the testimony of the witness Edward Patch relating to the payment to him in the year 1935 of checks by the Los Angeles Times; and if there is testimony that he received checks in 1934 the motion would go to that matter also.

Trial Examiner Kennedy: Motion denied.

Cross Examination

Q. (By Mr. Cosgrove) Now, Mr. Patch, you did not receive any checks in 1936, did you?

A. I don't think I did.

Q. Do you think that the first checks you received were in 1934? A. Yes. [1410]

Q. I understood that you commenced the sale of the Times in front of the Biltmore?

(Testimony of Edward Patch.)

A. No.

Q. Where did it start?

A. Seventh and Grand.

Q. And the amounts of the checks to start were $3.00 a week.

A. 50 cents per day.

Q. You got a check each day?

A. No. One check a week. I didn't say the amount of the check was $3.00. The amount was $3.50.

Q. Yes. But the form of the check; it was a check of the [1411] Times Mirror Company?

A. That is right.

Q. And it was payable to your order?

A. Yes, sir.

Q. You say the amount of the check, though, varied? A. That is right.

Q. And the amount of the check depended upon the number of papers that you sold?

A. That is right.

Q. What was the ratio between the amount of the check and the number of papers that you sold—let me ask that again in a different form. Do you know what the allowance was for each paper sold that went into the total amount of the check?

A. 10 papers.

Q. What? A. 10 papers.

Q. The answer is 10 papers?

A. For that 50-cent check, yes.

Q. Now, supposing that you sold 10 papers, on

(Testimony of Edward Patch.)

Monday night you would get a 50-cent check for that, would you? A. Yes.

Q. Now let us assume that you only sold five papers; how much of a check would you get? [1412]

A. I don't know; there was no allowance—I don't know of any allowance for five papers.

Q. If you sold 50 papers in the night, what would be the amount of the check?

A. Well, there was supposed to be—I was getting $10.50 per week.

Q. I am talking about selling 50 papers in a night. A. That is right.

Q. For those 50 papers you would get $10.50?

A. Ten per week.

Q. I am not asking you now if you sold 50 papers every night, but just 50 papers one night.

A. Yes.

Q. Then the next night you might sell more and you might sell less? A. That's right.

Q. How much would you be allowed for selling the 50 papers? A. I couldn't tell you.

Q. Did you know when you received your check how much it would be before you looked at it?

A. No, I don't think I would without turning the money for them 50 papers in to the company. If I turned in the money for the 50 papers, I would know what my check would be. [1413]

Q. During this time in 1934-1935, when you received these checks each week, did you pay the district man for the papers that he delivered to you? A. Every night.

(Testimony of Edward Patch.)

Q. You paid him every night? A. Yes.

Q. How much did you pay him, Mr. Patch? How much per paper?

A. Per paper, 3 cents.

Q. You paid 3 cents?

A. That is right.

Q. And how much did you sell it for?

A. A nickel. [1416]

Q. Now, that was on the daily. And what about the Sunday paper?

A. I paid him 5 cents.

Q. And you sold it for how much? Sir? You sold it for 10 cents, didn't you?

A. That is right. Sold it for 10 cents. I was——

Q. (Interrupting) Now, then, on the daily paper, this 2 cents represented by the difference between what you paid for it and what you sold it for, did you retain that 2 cents?

A. I did.

Q. And the 5 cents which represented the difference between the nickel that you paid for the paper and the dime that you got for it when you sold it, you kept that nickel?

A. I did.

Q. You paid the district man every night for the papers that he delivered to you that day?

A. I did.

Q. Don't you remember, Mr. Patch, that during this time when you got those checks that you paid 7½ cents for the Sunday paper?

(Testimony of Edward Patch.)

A. I paid—you're right; you're right.

Q. And the 2½ cents you kept?

A. That's right.

Trial Examiner Kennedy: Speak your answers, please.

The Witness: That's right. [1417]

Q. (By Mr. Cosgrove) Now, in 1936 you received no check. So sometime at the end of 1935 you stopped receiving checks?

A. Yes, sir.

Q. And do you remember whether or not at that time you were asked whether or not it would be agreeable to stop paying you by check?

A. No, I was not asked.

Q. Nothing was said to you at all, was there?

A. Not a thing.

Q. The Times just stopped paying you these checks? A. Yes.

Q. Or delivering these checks to you?

A. That is right.

Q. And that was late in 1935, was it?

A. Yes.

Q. September or October?

A. I couldn't say. It was the later part of 1935.

Q. The later part of 1935? A. Yes.

Q. And since that time you have received no checks from them? A. That is right.

Q. And since that time all you have received from them, from the Times, is the papers and the profit that you would get in the sale of the papers?

(Testimony of Edward Patch.)

A. Yes, that is right. [1418]

Q. Do you remember, was there a change made in 1936 in the price of the Sunday paper to you?

A. There was.

Q. And what was that change?

A. The difference between two and one-half cents and a nickel.

Q. Well, you mean by that, prior to that time they had been charging you seven and a half cents?

A. That is right.

Q. And thereafter they started charging you five cents? A. Yes.

Q. Well, now, then again here a year or two ago they raised the price of the Sunday paper to six cents, didn't they?

A. They did, yes.

Q. And they raised the price of the daily paper to you, did they or did they not?

A. They did.

Q. So that in 1935, let us say, you paid a certain price for the papers? A. Yes.

Q. And then in 1936 they changed that price?

A. Yes.

Q. And then again in 1939 they again changed the price? A. About that time, yes.

Mr. Cosgrove: Mr. Yoakum would like to ask the witness [1419] a couple of questions.

Cross Examination

Q. (By Mr. Yoakum) Mr. Patch, do you know

(Testimony of Edward Patch.)

what is meant in newspaper circles by the term "dumping papers"?

A. If you say "dumping papers," no. I never heard the expression used.

Q. Do you recall testifying a few minutes ago that at the time you received the so-called bonus that you would sometimes hold out some papers so that you would apparently have sold 35?

A. I did.

Q. I will ask you if you will just explain to the Examiner what you meant by that. It wasn't clear to me.

A. Well, we will start with ten papers. I got on the corner and they gave me ten papers down there, and he says—well, I am supposed to hustle them, and I sold seven or eight copies of them and naturally I read one paper, so I would give the other one away.

Q. You would give the other one away to make up the ten? A. That is right.

Q. Now, if you had sold, let us say, 30 papers and you had five left what would you do with them?

A. Well, I would take them home, take one home with me, give the newsboy one, just give them away.

Q. You would do away with them? [1420]

A. That is right.

Q. But you would pay for the entire 35?

A. I did.

(Testimony of Edward Patch.)

Q. And then you would get a larger bonus, as you call it? A. That is right.

Q. Now, I will ask you did you continue that practice after this so-called bonus was eliminated?

A. Kept papers?

Q. Yes. A. I have.

Q. How many do you keep?

A. Anywhere from two, three, that I wouldn't sell.

Q. Did you pay for them? A. I did.

Q. What did you do with them?

A. Well, I keep one—I give one to the street car conductor when I get on the street car; I take one home with me and then maybe the landlady reads one, too.

Q. But you don't just eliminate them like you used to?

A. No, not what you would call eliminate them, because generally if I sold 31 or 32 papers I would give the newsboy one and then I would take one and another fellow would take one. That wouldn't be eliminating them.

Q. But under the old system, when you got your so-called bonus, you would eliminate them to build up a bonus? [1421] A. No.

Q. Didn't you just testify a few minutes ago you did that very thing?

A. Eliminate three papers, if that is what you mean, yes.

Q. What did you mean previously when I asked

(Testimony of Edward Patch.)

you about eliminating papers so as to build up to the 35?

A. Just what I says here, I would take one home, give one to the landlady, and the street car conductor. That would be eliminating those three papers, to build up to 35.

Q. You could have turned those odd papers in for credit under the old system?

A. Yes, if I didn't want them.

Q. Then your bonus would have been smaller?

A. Well, if I just paid for 34 papers, naturally my bonus would be for either 30 or 25 papers. That is just natural.

Q. You first sold at Seventh and Grand, if I recall correctly?

A. That is right, on the Times.

Q. Now, what other papers did you sell?

A. Not any.

Q. How long did you stay at Seventh and Grand? A. Maybe—close to a month.

Q. And then you went to Seventh and Broadway and stayed there for five or six months?

A. That is right.

Q. Now, what other papers did you sell at Seventh and [1422] Broadway?

A. Not any.

Q. And after that, about September, 1935, you went to the Biltmore? A. That is right.

Q. And you have sold there ever since?

A. That is right.

(Testimony of Edward Patch.)

Q. Now, what papers do you sell there?

A. Just the Times.

Q. You don't sell any Examiners?

A. I don't sell any other paper or publication.

Q. Do you carry the Examiner?

A. I don't carry no Examiners.

Q. Is there an Examiner hustler there?

A. There is.

Q. Does he carry the Times?

A. He does not carry the Times.

Q. Not one copy? A. Not one copy.

Q. What do you do if someone asks you for an Examiner?

A. Well, if he is not there, I will pick it up and sell it to the man.

Q. You sell it? A. That is right.

Q. Then you wish to correct your statement that you do not [1423] sell the Examiner?

A. I do not sell the Examiner.

Q. Well, if somebody asks you for an Examiner and the Examiner man is not there, you hand him an Examiner? A. I have to.

Q. Why do you have to hand him an Examiner?

A. Well, the principle of a newsboy is to handle—to help the Examiner man out if he is not there, and to take care of his papers so they don't steal them. I wouldn't want somebody to walk away with my paper without paying me. If the Examiner is there, naturally he is going to pay me a nickel for my papers.

(Testimony of Edward Patch.)

Q. Then when you hand the Examiner to the customer he gives you a nickel for it?

A. Absolutely.

Redirect Examination

Q. (By Mr. Mouritsen) What do you do with the nickel that you get when you pick up an Examiner and give it to the customer?

A. Give it to the Examiner man. [1424]

Mr. Cosgrove: Before we take the recess, if the Examiner please, the Los Angeles Times will renew their motion to strike from the record all of the testimony of the witness Edward Patch dealing with or relating to the receipt by him of checks during the years 1934 and 1935, on the ground that it has no tendency to establish the relationship between the newsboys and the Los Angeles Times at the present time, and that it is irrelevant to any issue presented by the petitions and any pleadings filed by the defendant, or company, the Times Mirror Company, and that it relates to a period of time too remote to the present time to indicate the present status.

Trial Examiner Kennedy: Have you anything to say on that, Mr. Mouritsen?

Mr. Mouritsen: I think that I would oppose the granting of the motion, Mr. Examiner. I think that it has bearing upon that relationship as it exists at the present time.

Trial Examiner Kennedy: Well, I am going to

deny the motion, but I want to observe that I would get from the testimony an indication that the witness is not an employee [1425] at the present time. It would seem to me that it tends to show that if he were in that category in 1935, or closer to it in 1935, he is farther away from it at the present time. So I think that any evidence that came in under that testimony would tend to establish the company's case rather than the union's case. That is the way I view it. If you want it in the record, it will stay in.

Mr. Mouritsen: After all, Mr. Examiner, this is a factual inquiry——

Trial Examiner Kennedy (Interrupting): I think it is prejudicial to the Union's case. That is what I think.

JOHN FRANCIS FIELDS

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified as follows:

Mr. Hall: Will it be stipulated that the testimony of Edward Patch has no relation to the Los Angeles Examiner case?

Mr. Mouritsen: It may be so stipulated. [1426]

Mr. Compton: The same stipulation with reference to the Los Angeles Evening Herald and Express?

Mr. Mouritsen: So Stipulated.

(Testimony of John Francis Fields.)

Mr. Binford: And for the Stockholders Publishing Company?

Mr. Mouritsen: So stipulated.

Direct Examination

Q. (By Mr. Mouritsen) Mr. Fields, where do you sell the Times at present?

A. At Sixth and Broadway, on the northeast corner.

Q. Have you ever been removed from that spot?

A. Yes.

Q. And about when was that?

A. About February 29, 1940.

Q. Prior to the time when you were removed, did you have a conversation with any district man of the Times regarding your removal? A. No, sir.

Q. Did you have a conversation with anyone connected with the Times in any way?

A. Well, yes, I did.

Q. With whom?

A. With Huey Campbell, the district man, the following day; that is, I was not notified on the date of removal, and I contacted the district man the following day and got the [1427] information.

Q. Will you state what Mr. Campbell said to you and what you said to Mr. Campbell?

A. Well, I went through the regular procedure to get my papers, and Huey called me over and he said, "Fields, your spot has been consolidated." I said, "Yes?" I said, "How do you mean by consolidated?" He say, "Well, the corner doesn't rate two men,

(Testimony of John Francis Fields.)

and," he said, "we have decided to make it an extra laydown with the Examiner."

So I immediately inquired, and I said, "Well, what does that mean? Am I through?" "Well, no," he said, "you come down to the concourse tomorrow, and we will see what we have got for you to do."

And I said, "What about tonight?" He says, "Well, I'm sorry; I haven't got anything for you tonight, but see me tomorrow anyway."

Q. Was that about the end of the conversation?

A. Well, let me see. Yes, it was, at that time. [1428]

Q. Did you return to the corner after that time?

A. Yes, I did.

Q. And did you have a conversation there with any district man or with anyone else connected with the Times?

A. Yes, I did, later on in the evening.

Q. And with whom did you have such a conversation?

A. Juey Campbell and, finally, Jerry Cohen.

Q. Will you state what was said by you or by anyone else present on that occasion?

A. Well, as near as possible, I asked Huey how it was that the corner was consolidated and I was not notified. That was [1430] the first thing in the conversation. And he said, "Well, I don't think it was necessary. The corner does not rate two men, and I told you that you would get work the following day if you came to the concourse." I said, "Well, how about

(Testimony of John Francis Fields.)

the situation across the street on the main spot?" I said, "There is a new man working over there, and I have been working here about nine to ten months and I don't recollect being asked about the main spot." So then it led into where there was a few accusations brought up about not being on the corner and——

Q. (Interrupting) Who brought those up?

A. Huey Campbell.

Mr. Cosgrove: What did he say? What did he say?

The Witness: He said that "You were tardy and not on the corner most of the time," and that he had given specific instructions to get the papers at a certain place, and for the time it was not done. And he said that he couldn't see where it warranted the holding on of a job. So, after that conversation was over, why, Gene Alley injected the question and said that, "Well, the situation has been going on for a period of months and the thing was not remedied until today. I want to know the reason," he said, "of it all. And the fellow has been working there for a period of nine months, and I should think he has shown his reliability; he has always been at the corner and always paid the bills." That [1431] was about the substance of the conversation.

Q. Well, then, did Mr. Cohen come after that time? A. He was there at the time.

Q. Well, did he say anything during this conversation?

(Testimony of John Francis Fields.)

A. Well, he just wanted to know exactly what the trouble was there and why we couldn't get along.

Q. And did he say anything?

A. Yes, but I don't believe I remember the exact words.

Q. Well, just tell us in general the substance of it.

A. That he had had reports about the tardiness and being off the corner and wanted to know why I couldn't do a better job of it.

Q. And what did you say, if anything?

A. I told him that I had been working extra in the daytime at the time and that it might have made me 15 or 20 minutes late, and that I had made an arrangement with Huey Campbell to be at the corner at the approximate time, in preference to Sixth and Olive, and that was agreed to a certain length of time, and then the discussion came up again.

Q. Now, do you recall anything further that was said by anyone at that conversation?

A. Well, I believe the remainder of the conversation by Jerry Cohen was that after all we don't require ten hustlers to report to Sixth and Olive to catch the sheets; something to that effect. He said if the main spot shows every day, [1432] he says that is the requirement, and at that particular time I was the off spot. He says if he gets to the corner on time and represents the paper where he is supposed to sell it, that is satisfactory.

Q. Is that about all that you can recall?

A. That is about all.

(Testimony of John Francis Fields.)

Q. Well, did you then go back and operate on the corner after that time?

A. Yes. If I could inject a previous action in that, I had ignored the order to not report on the corner. I had gone to work previously to that, but I waited until Jerry Cohen came to iron out the situation. I was refused papers in the meantime until he got there. [1433]

Q. And you remained on the corner?

A. I remained on the corner.

Recross Examination

Q. (By Mr. Yoakum) I didn't get the approximate date that this controversy occurred.

Mr. Cosgrove: February 29, leap year.

Q. Of this year? A. Yes.

Q. That is the date that you say Huey Campbell didn't sell you any papers?

A. That is right.

Q. Now, on that particular evening did you sell any Times on that corner? A. Yes, I did.

Q. You did sell them? A. Yes, sir.

Q. From where did you get them?

A. Well, I went and reported to my regular corner and picked up the papers on the corner. There was a lay-down made there and I started to hustling papers until Jerry Cohen and Huey came down to iron out the situation. [1434]

Q. Jerry Cohen came down the same evening of the earlier conversation with Huey Campbell?

A. That is right.

(Testimony of John Francis Fields.)

Q. And you were there selling?

A. That is right.

Q. If I didn't misunderstand you, you testified this afternoon on direct examination that you were removed from the spot on February 29?

A. Well, I believe that is a technical point. I wasn't removed; I was notified I wasn't working, not removed.

Q. And you sold there that night?

A. Well, that was after I was given that notice. I reported to work and was told there was no work.

Q. But you got papers?

A. I got papers.

Q. And sold on the corner that night?

A. That is right.

Q. And I suppose you sold those other periodicals that you stated yesterday you handled?

A. No. At that particular time I did not.

Q. Well, were you handling them then?

A. I *will* handling them, yes, but due to the controversy there the Examiner man had them turned over to him.

Q. All those papers that you enumerated yesterday were turned over to the Examiner man that evening? [1435]

A. That particular evening, yes.

Q. Who turned them over to him?

A. The Herald man. The Herald man was there just before I saw Jerry Cohen.

Q. Now, do you recall what time of the evening it was that Jerry Cohen came down to the corner?

(Testimony of John Francis Fields.)

A. Well, approximately about between 7:00 and 7:15.

Q. And this, I suppose, is the southeast, the Mullen & Bluett, corner? A. That is right.

Q. That is where you were hustling at that time?

A. That is right.

Q. You mentioned that you stated to Jerry Cohen that you had been working? A. Yes.

Q. Now, what was the nature of that work?

A. Well, there had been times that I had been working extra on the Herald in the daytime, an hour or two hours, to make an extra amount of money.

Q. Selling the Herald? A. Yes, sir.

Q. When did you start doing that?

A. Well, it has been odd jobs. I hadn't had any steady work at it. I might have worked maybe once a week or so, and I think that had been going on for—it had been the past [1436] year, anyway, prior to the time.

Q. Now, I don't want to commit you if your recollection is indefinite, but is it fair to state that you were selling the Herald in the daytime for about a year prior to February, 1940?

A. Well, I can't estimate a year but it was within the period. It wasn't steadily for a year, I mean.

Q. But you think it commenced as long ago as say February or March of 1939?

A. I believe that is right.

Q. Now, where did you sell these Heralds, Mr. Fields?

(Testimony of John Francis Fields.)

A. Sixth and Spring, and I believe I relieved at Second and Spring once or twice.

Q. Do you recall what editions of the Herald you sold?

A. The Night Edition and sometimes the Night Final.

Q. The Night Edition and Night Final?

A. Yes.

Q. Is the Night Final the last edition of the Herald? A. No, it is next to the last.

Q. What is the name of the last?

A. The 7 star Night Final.

Q. That is full racing?

A. That is right.

Q. You didn't sell the 7 star?

A. No. [1437]

Q. How many Heralds would you sell during the course of an afternoon?

A. Well, I never really kept track of it because I was getting an hourly rate, but I should judge around 25 anyway; it might have been more at times, but that is about the average.

Q. What did you mean by that statement you were getting an hourly rate?

A. I was paid an hourly rate for working at the corner.

Q. Who paid you?

A. At that particular time, Louie Schwartz, and I believe it was Bob Lindsey. I don't remember his first name. Lindsey was the last name, anyway.

(Testimony of John Francis Fields.)

Q. Louie Schwartz, is that the same person as the Louie Schwartz who has testified heretofore in connection with the Herald

A. Correction; not Louie Schwartz; Ben Schwartz, his brother. I worked for Ben Schwartz.

Q. And Ben Schwartz paid you a certain amount of money? A. That is right.

Q. Was it dependent upon how much you sold?

A. No.

Q. It was not dependent upon the number you sold? A. No, sir.

Q. So much per hour? [1438]

A. Per hour; that is right.

Q. Do you recall how much he paid you?

A. Well, I think the highest I got was for two hours work, 50 cents.

Q. That is 25 cents an hour?

A. That is right.

Q. Did he make any deduction for Social Security? A. No, not that I know of.

Q. Well, he gave you the full 50 cents?

A. Gave me the profit, yes. That is, I mean the earnings?

Q. Are you registered as an employee of Ben Schwartz? A. No, sir.

Q. Were you engaged in any other occupation at about that time, Mr. Fields, or shortly prior to February 29, 1940?

A. February 29th? Well, I believe I have done numerous jobs for the Union.

(Testimony of John Francis Fields.)

Q. Do you receive compensation?

A. Yes.

Q. What was the nature of that work?

A. Literature, and something along that line, delivering literature.

Q. Distributing?

A. That's right. Distributing.

Q. To whom did you distribute this literature?

A. It was to the public in general. [1439]

Q. To the general public?

A. That is right.

Q. Can you tell me more definitely when you engaged in that?

A. Well, I believe it is kind of vague. I couldn't say right offhand when it came in, because these jobs came up every now and again. I never kept any records of these jobs or anything.

Q. Well, did it just arise occasionally, once a week, or was it more regular than that?

A. Well, I would say it was once or twice anyway.

Q. Once or twice a week?

A. That is right.

Q. And over what period of time did that activity extend, the distribution of literature?

Mr. Mouritsen: I will object, Mr. Examiner, that this is immaterial to the point here involved.

Mr. Yoakum: You mean it is too remote?

Mr. Mouritsen: Well, it is too remote, and in addition it is immaterial.

(Testimony of John Francis Fields.)

Trial Examiner Kennedy: I will let him answer it.

(The question referred to was read by the Reporter as set forth above.)

The Witness: Well, if I—can I ask on that question there if you mean the period of months or—I don't exactly get the point of the question. [1440]

Q. (By Mr. Yoakum) Well, I will withdraw that and try to restate it more definitely. Had you started your distribution endeavors before January of 1940? A. Oh, yes.

Q. Would you say that you had started it as early as June, 1939?

A. No, I don't believe it was as early as June, no.

Q. Possibly the fall, then, of 1939?

A. Somewhere in the fall, yes. That is right.

Q. And you continued doing it through January of 1940? A. Yes.

Q. And through February, 1940?

A. I believe so. In February too, yes. [1441]

Q. In your testimony of the 20th—that is yesterday—Volume 10 of the official transcript, I asked you this question, "About October or November, 1939, were you engaged in any other occupation than that of selling newspapers and periodicals? A.—No, I was not. Q.—You never had any other [1443] sort of job or calling for which you received compensation? A.—No." Do you recall giving that testimony?

(Testimony of John Francis Fields.)

A. Yes, I do. I believe I do remember.

Q. Do you want to correct that testimony at this time?

A. Well, I am a little confused on these dates here, as I say, in that period of the year there, so I believe that will have to be corrected. It will stand, I believe, as I stated today regarding these dates.

Q. In this conversation with Jerry Cohen on the evening of February 29, 1940, do you recall stating to Mr. Cohen in substance that the reason you were late to the corner was because you had some other work that had been keeping you [1444] away from the corner?

A. Yes, that's right. [1445]

Mr. Binford: May it be stipulated, Mr. Mouritsen, that the testimony of this witness given at this session this afternoon has no bearing and is not intended to apply to the Stockholders Publishing Company, Inc.?

Mr. Mouritsen: It may be so stipulated, with the exception of the part that the organization took in this one particular instance, because that indicates the nature of the labor organization involved.

Mr. Binford: I accept the amendment. [1451]

Saturday, June 22, 1940

Met, pursuant to adjournment, at 9:30 o'clock a. m. [1454]

Trial Examiner Kennedy: The hearing will be in

session. These cards that I have examined, that I noted yesterday——

Mr. Mouritsen (Interrupting): Mr. Examiner, before we go into that, perhaps I should say that the Union has furnished me 25 additional cards with reference to Times newsboys, and perhaps a check of those could be made before the—so that the check of all cards could be had.

Trial Examiner Kennedy: I don't think that is necessary as we have already got a representative number, and of the number that I have examined, approximately 150 total, I found that 76 of them have names on them that compared with names on Times Exhibit 6, and the dates on the cards ranged from the first date, April 6, 1940, to the last date, June 19, 1940. The cards have been returned to the Union. [1456]

Trial Examiner Kennedy: In making the check on yesterday, of course, there is no way to tell whether or not some names appear on these cards that are in the exclusions contended by the Union. As I understand it, Times Exhibit No. 6 includes the exclusions.

Mr. Cosgrove: Yes. There is no doubt about that.

Mr. Mouritsen: Yes.

Trial Examiner Kennedy: So that, as far as any complete accuracy is concerned, it is impossible from that list, and for the purpose of checking the cards, such as I did yesterday, I do not see the ne-

cessity of any great accuracy. The only purpose of that is to show the Board that the Union has some interest in the case. That is the only purpose I could see for these cards. If you have any other understanding of that requirement, I would like to have you state it, Mr. Mouritsen. [1459]

Mr. Cosgrove: What you would like to have me do, I take it is apparent, is to take your definition and go out and see how many come under that classification of the 600 names that are here, and I do not think that we should do any such a thing. I think that is immaterial.

Trial Examiner Kennedy: I do not see why it is necessary.

Mr. Cosgrove: No. We do not understand why, either. [1461]

Mr. Mouritsen: Well, so long as the company understands [1462] the claims of the unit so that they can adduce any evidence that they desire in that regard I think no further action would be——

Mr. Cosgrove (Interrupting): Well, the company is making no complaint. [1463]

RAYMOND F. MARX

called as a witness by and on behalf of the Times-Mirror Company, having been previously duly sworn, resumed the stand and testified further as follows:

Trial Examiner Kennedy: You have already been sworn?

(Testimony of Raymond F. Marx.)

The Witness: Yes, sir.

Direct Examination

Q. (By Mr. Cosgrove) You are the Raymond F. Marx who was sworn and testified heretofore and stated you were the circulation manager of the Times? A. Yes, sir.

Q. You are familiar with Times Exhibit No. 6, which is the names of the persons and locations where engaged of the various boys who deal with the district men in the sale of newspapers for the Los Angeles Times? A. Yes.

Q. You have seen that list and gone over it, have you? A. Yes, sir.

Q. Now, in this list are there any of these men that are on the Los Angeles Times pay roll?

A. Yes, there is one.

Q. What is his name? A. James Deutch.

Q. His name appears on Page 25 of Exhibit No. 6, and the notation reads: "James Deutsch, Sunset and Western. This [1465] man, James Deutsch, is on the Times pay roll receiving $12.60 per week." Is that a regular Times pay roll check?

A. Yes, sir.

Q. And how often does he receive that check?

A. Every two weeks.

Q. And for what?

A. For checking in and counting the night district men's returns in our office.

Q. He does that in the Times Building?

A. That is right.

(Testimony of Raymond F. Marx.)

Q. At second——

A. (Interrupting): At First and Spring.

Q. What time of day or night does he do this work?

A. I believe he starts about two o'clock in the morning, 1:30 or 2:00 o'clock in the morning.

Q. And it takes him——

A. Several hours.

Q. With reference to this group of names, I don't know how many there are, approximately 610, are there any Social Security registrations by the Los Angeles Times of these men?

A. Only on the one mentioned, James Deutsch.

Q. Now, does the Times carry Workman's compensation Insurance under the state Workman's Compensation Insurance and Safety Act for these men mentioned on this Exhibit 6?

A. It has such a policy that covers all employees. [1466]

Q. And is that policy—does the premium on that policy depend upon the pay roll?

A. It does.

Q. And how frequently is there a check on the pay roll? A. I believe every six months.

Q. And do the boys' names or the men's names who appear on Exhibit 6 appear on that pay roll that is checked?

A. Only the one name mentioned, James Deutsch.

Mr. Cosgrave: Cross examine.

(Testimony of Raymond F. Marx.)

Cross Examination

Q. (By Mr. Mouritsen) Mr. Marx, there are a number of newsboys whose names appear upon Times Exhibit 6 who receive an automobile allowance for transporting newsboys to their respective corners, are there not? A. That is right.

Q. Approximately how many?

A. I believe 12. I am not sure, but I believe it is 12.

Mr. Mouritsen: Nothing further.

Redirect Examination

Q. (By Mr. Cosgrove) That matter of the automobile allowance is taken care of by the district men themselves, isn't it? A. That is right.

Q. And it is a payment of money to them? There is no check or pay roll record?

A. No pay roll record whatsoever. [1467]

Mr. Cosgrove: That is all.

Recross Examination

Q. (By Mr. Mouritsen) The Times makes the district managers an allowance for the purpose of taking care of that? A. That is right.

Mr. Mouritsen: That is all.

Mr. Cosgrove: That is a part of the expenses of the district manager?

The Witness: That is part of the expenses of the district manager.

Mr. Cosgrove: That is all, Mr. Marx.

Trial Examiner Kennedy: Anything further?

(Testimony of Raymond F. Marx.)

Q. (By Mr. Mouritsen) The Times makes its district men an allowance, a car allowance, is that correct? A. That is right.

Q. For the use of their own cars? A. Yes.

Q. It is a fact, is it not, that the Times district men themselves often transport those newsboys to their respective spots in the automobiles upon which the Times makes an allowance; isn't that correct? A. That is right.

Mr. Mouritsen: That is all.

Mr. Cosgrove: The Times district men, of course, are recognized as employees of the Times? [1468]

The Witness: They are employees of the Times.

Mr. Cosgrove: And carried on the pay roll the same as any other party?

The Witness: Yes.

Mr. Cosgrove: That is all.

Trial Examiner Kennedy: You spoke about the pay roll being checked for Workman's Compensation. Do you know who does that?

The Witness: I believe our accounting department.

Trial Examiner Kennedy: Your accounting department?

The Witness: That is right.

Trial Examiner Kennedy: And they make a return to the Workman's Compensation authorities of the State; is that it; or do you know how that is worked out?

The Witness: I presume they do. I don't know. It doesn't come under my jurisdiction.

(Testimony of Raymond F. Marx.)

Trial Examiner Kennedy: That is all.

Mr. Cosgrove: Do you know whether or not a representative of the insurance carrier also checks the pay roll?

The Witness: Yes.

Mr. Cosgrove: That is all, Mr. Marx. [1469]

Mr. Mouritsen: At this time, Mr. Examiner, I move to amend the petition filed in the matter of the Hearst Publications, Inc., Los Angeles Examiner Department, which is in evidence as Board's Exhibit 1-L, so that the appropriate unit therein set out reads as follows:

"All newsboys engaged in the street sale of the Los Angeles Examiner at established spots four or more hours per day, five or more days per week, within the city of Los Angeles, California, except temporary newsboys. [1471]

"An established spot is a place where a newsboy has engaged in the street sale of the Los Angeles Examiner five or more days a week for a period of six consecutive months or more.

"A temporary newsboy is a newsboy who has been engaged in the street sale of the Los Angeles Examiner at an established spot for 30 days or less."

Trial Examiner Kennedy: That is the same as the proposed amendment to Board's Exhibit 1-P, with the exception of "and Glendale, California"?

Mr. Mouritsen: That is correct.

Trial Examiner Kennedy: Is there any objection?

Mr. Hall: No objection, your Honor.

Trial Examiner Kennedy: For the reason stated yesterday in regard to the proposed amendment to Board's Exhibit 1-P I will not permit the petition to be amended but will treat the proposed amendment as a clarification of the position of the Union, or the bill of particulars. Have you got anything further to say about that proposition as to the Trial Examiner's authority to permit amendments to petitions?

Mr. Mouritsen: Perhaps, Mr. Examiner — or could it be suggested that the Trial Examiner reserve its ruling upon the motion and let the Board pass upon it itself?

Trial Examiner Kennedy: Very well, I will do that. That will be the ruling as to the L. A. Times case also. Of [1472] course, the Board will do that regardless of my ruling. In fact, if they feel it proper to amend the Board will reverse any ruling the Trial Examiner makes on that point.

Mr. Hall: Of course, as regards that amendment, it is understood I am regarding this amendment simply as an elaboration of the contention made in the petition; and the Los Angeles Examiner does not admit that there is any such unit, nor does it admit any of the other matters in the petition which have heretofore been denied. May it be stipulated, Mr. Mouritsen, that the answer previously filed by the Hearst Publications, Inc., Los

Angeles Examiner Department, and the motion to dismiss made by it, may be deemed to apply with full force and effect to the petition if it be amended by this clarification, and if amendment is not permitted then to the clarification itself?

Mr. Mouritsen: Yes, that may be so stipulated. And I believe you stated earlier, Mr. Hall, that you were unable to secure a list of newsboys who handle the Los Angeles Examiner.

Mr. Hall: That is correct. There is no such list in existence so far as I have been able to ascertain. The names of the boys are not known. [1473]

JOHN C. WEISBACKER

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Weisbacker?

A. 1750 North Serrano, Apartment 203.

Q. That is in the city of Los Angeles?

A. City of Los Angeles—let's see, now. I think that is Hollywood.

Q. What is your business or occupation?

A. Circulation manager, Los Angeles Examiner.

Q. How long have you held that position?

A. Well, about the—the title on it—I have had

(Testimony of John C. Weisbacker.)

several. I was assistant circulation director and still am; this title just recently, in the last two months.

Q. You mean circulation manager for the last two months? A. Yes.

Q. Prior to that time you were the assistant circulation manager?

A. Assistant circulation manager, office manager and transportation manager, and still am.

Q. How long did you hold that position?

A. I held those for the past, possibly, approximately a year and a half; something like that.

[1474]

Q. Prior to that time did you have any connection with the Los Angeles Examiner?

A. Well, I came here around May the 16th, 1938; was transferred from the Herald and Examiner, from Chicago.

Q. Did you immediately assume your duties as assistant circulation manager, and these other duties that you have indicated, at that time?

A. No. I came in as a confidential accountant to Mr. Black, making a check on circulation.

Q. Mr. Black was who at that time?

A. He was the circulation director at that time.

Q. How long did you act as confidential auditor to Mr. Black?

A. Oh, offhand I don't know at the present time. I don't know when I was appointed to these other positions, the exact date. I just automatically went into them at times.

(Testimony of John C. Weisbacker.)

Q. I don't want the exact date; I would like to find out the approximate period, month.

A. Oh, possibly two or three months, maybe four. I just automatically went into these other positions.

Q. Didn't somebody appoint you to these other positions?

A. Yes, but I don't know the exact date.

Q. Who appointed you?

A. I was appointed by Mr. Black.

Q. And during the period that you have been connected with the Los Angeles Examiner— [1475]

Mr. Mouritsen (Interrupting): And may it be understood that when I refer to the Los Angeles Examiner that is a reference to the corporation here involved?

Mr. Hall: Well, I see what you mean, and I have been doing the same thing, Mr. Mouritsen. I think we can both correct that. Where either of us refers to Los Angeles Examiner they are in fact referring to the Los Angeles Department of a corporation known as Hearst Publications, Inc.

Mr. Mouritsen: Thank you.

Mr. Hall: May we so agree?

Mr. Mouritsen: I think you meant the Los Angeles Examiner Department. I believe you said, "The Los Angeles Department."

Mr. Hall: Los Angeles Examiner Department.

Mr. Mouritsen: Yes, that may be so agreed.

Trial Examiner Kennedy: Is there a question pending?

(Testimony of John C. Weisbacker.)

The Reporter: The question was not completed. It is: "And during the period that you have been connected with the Los Angeles Examiner——".

Q. (By Mr. Mouritsen): ——have you become familiar with the means and methods whereby the Los Angeles Examiner circulates its newspaper?

A. I don't quite understand the question. We do not—I don't—we do not circulate papers; we sell papers. We never circulate, I mean. We always—we sell papers.

Q. What is the meaning, then, of the title that you bear, [1476] "Circulation Manager"?

A. Well, that title is in charge of all circulation.

Q. Will you explain what you are in charge of?

A. Well, in charge of all net paid circulation after the circulation is paid for. [1477]

Q. (By Mr. Mouritsen) Now, please explain what you meant [1480] by the statement that you are in charge of all circulation?

A. Well, by that I meant that I was in charge of all papers that were printed and distributed, which were distributed for sale, and that I saw to it that those papers, less the unsold copies which are returned to the plant, were paid for.

Q. Now, can you explain briefly just what you do in performing those duties?

A. In what way?

Q. Well, will you tell us what you do? You have said that those are your duties. Now, what do you undertake in order to perform those duties?

(Testimony of John C. Weisbacker.)

A. Well, we see that the paper is printed; our transportation department, the trucks, come in and get the papers. Independent dealers come in and get the papers. They are put in the stands; they are distributed around to stands and different places wherever there is a sale for them. We see that men collect the money and bring it into the office.

Q. Wait a minute. Are the papers distributed only to stands as you say?

A. No, they are distributed to newsboys, stands, district headquarters.

Q. What are district headquarters?

A. It is the home delivery.

Q. Continue.

A. All outlying spots, trains, busses. [1481]

Q. Now, what other duties do you have?

A. Well, in what way do you mean? I mean I could possibly go on here for almost a day to go into detail of all my duties that I take care of in the office.

Q. Please do so for us as far as you can recall what duties you have.

A. Well, I have letters come in there, I answer letters.

Q. With reference to what you have said is being in charge of all circulation?

A. With reference to the sale of newspapers.

Q. (By Mr. Mouritsen) Continue and tell us further what your duties are, Mr. Weisbacker.

(Testimony of John C. Weisbacker.)

A. Well, I take care of the hiring of all employees over there in that department.

Q. And what is that department?

A. The circulation department. [1482]

Q. Continue.

A. Or anything that comes in the office there in Mr. Black's absence, I take care of it.

Trial Examiner Kennedy: By the way, who is Mr. Black?

The Witness: He is the circulation director.

Trial Examiner Kennedy: He is your immediate superior?

The Witness: Yes.

Trial Examiner Kennedy: All right.

Q. (By Mr. Mouritsen) Well, what are some of these matters that you take care of in Mr. Black's absence?

A. Well, if a party comes in and asks for Mr. Black and asks any questions about—wants to know anything, why, I just take care of it.

Q. Wants to know anything with regard to what?

A. Anything at all that they ask.

Q. Whether it is connected with your department or not?

A. Where it is connected with our department I take care of it, yes.

Q. Now, do you have any further duties other than that?

A. Well, I think that just about takes care of

(Testimony of John C. Weisbacker.)

it. Anything that comes into that department in the absence of Mr. Black, why, I take care of it.

Q. Now, I believe you stated that the printing of the newspaper comes under your supervision; is that correct?

A. No, I didn't state that the printing of the newspaper came under our supervision. [1483]

Q. Under whose supervision does that come?

A. It comes under the production department.

Q. And that is a separate and distinct department from the circulation department?

A. Yes, sir.

Q. Now, do you have any other duties connected with the gathering of news that is printed in the newspapers? A. No, sir.

Q. What departments, if any, in the circulation department are concerned with the distribution of papers to newsboys?

A. Well, the night street department, the morning street department, and our suburban and country department.

Q. And what does the night street department consist of? First, who is the head of that department? A. Mr. Arthur Hampson.

Q. And how many men are there in that night street department?

A. Right offhand I don't recall the exact number.

Q. And what does the morning street department consist of?

(Testimony of John C. Weisbacker.)

A. The morning street department consists of the A. M. independent dealers, the 10-mile independent dealers, Mr. SeeBolt, the downtown street sales area, suburban and country department.

Q. And which of these are connected with the distribution of newspapers to the newsboys within the city of Los Angeles? [1484]

Mr. Hall: You mean which divisions of this morning street department?

Mr. Mouritsen: Yes, of the ones the witness has just enumerated.

The Witness: Well, now, I don't know exactly because some of these men may overlap into the outside territory. As I recall it, you have maybe Glendale or Hollywood or something like that that they go into, or Beverly Hills.

Q. (By Mr. Mouritsen) Well, I believe you spoke of the country and suburban. Do any of those men operate within the city of Los Angeles so far as distribution of the Examiner to newsboys is concerned?

A. Well, right offhand I wouldn't know. It could be a possibility that some of those men do, but I couldn't answer that question because they stop between here and getting to their territory.

Q. Their territory, in the main, is outside of the city limits of the city of Los Angeles?

A. Supposedly so, yes.

Q. And how about, I believe you said, the 10-mile men? What is the meaning of that term?

(Testimony of John C. Weisbacker.)

A. That is just a term used.

Q. Well, what does it mean?

A. Well, it is just a term used, just like the term, like the P.M. men, the P.M. street men or the A.M. street men. [1485]

Q. It has no meaning to you other than just a term?

The Witness: Well, it does, but I couldn't define the territory unless I had a map here showing the territory. It covers a certain area and they are classed as 10-mile men. Now, what area that covers, without having a map I couldn't say offhand.

Q. (By Mr. Mouritsen) Well, doesn't the term mean, Mr. Weisbacker, men who work outside of an area that is 10 miles from the Examiner plant?

A. I couldn't answer that without getting the boundary lines of the territory involved on the 10-mile men.

Q. I see. The term was in use in the Los Angeles Examiner when you became connected with it?

A. That is correct.

Q. Now, within what areas does Bill Seebolt distribute newspapers—that, the Los Angeles Examiner—to newsboys?

A. Well, we class it as the downtown area, but as far as his boundaries are concerned, I do not know those boundaries. [1486]

Q. And within what area, if you know, do the so-called A.M. independent district managers operate?

(Testimony of John C. Weisbacker.)

A. Well, that I wouldn't be able to determine without having a map and having the boundary lines set out.

Q. But all of these organizations that you have named and Bill Seebolt distribute the Los Angeles Examiner to newsboys; is that correct?

A. That I couldn't answer because it may be a possibility that some of those don't distribute.

Q. Do you know of your own knowledge that Bill Seebolt distributes newspapers, or, the Los Angeles Examiner, to newsboys?

A. Yes, I do.

Q. Now, the so-called A.M. independent district managers, do you know if they distribute the Los Angeles Examiner to Newsboys?

A. I don't know just whether all of them do or not.

Q. Most of them do?

A. I wouldn't say that.

Q. Well, Mr. Weisbacker, don't you receive certain checkers' reports covering the work of these so-called A.M. independent district managers?

A. Just periodically, checkers' reports on stand checks.

Q. And checks on newsboys as well?

A. Not checks on newsboys, no, sir. [1487]

Q. How often do you receive those checkers' reports regarding the work of them and district managers?

A. Well, sometimes—it has been approximately

(Testimony of John C. Weisbacker.)

six months since I received the last one. Sometimes it will be a year. It all depends on what we have for our checkers to do.

Q. During the period that you have been connected with the Los Angeles Examiner, have you examined those checkers' reports?

A. I looked at them, yes.

Q. Have you examined all of them?

A. I would not say that I have. I don't recall whether I have or not.

Q. And haven't the checkers' reports that you have examined indicated that newsboys—that these so-called A.M. independent district managers distribute to the newsboys in the city of Los Angeles?

A. I don't recall whether that is on there or not.

Q. With reference to the ten mile men, do you know whether or not they distribute to newsboys?

A. No, sir, I do not.

Q. And with reference to the country and suburban men, do you know whether they distribute to newsboys?

A. I don't—possibly they do, but for me to determine I would have to go out and make a check.

Mr. Hall: Can't we leave the country and suburban out of it, to save time, Mr. Mouritsen? Certainly the newsboys [1488] in the country and suburban are not the newsboys that you have reference to in the petition.

Mr. Mouritsen: If that may be so understood, I will drop the matter.

(Testimony of John C. Weisbacker.)

Mr. Hall: Well, let us ask the witness if there be newsboys working for the country and suburban men, whether they are not outside of the city of Los Angeles limits.

The Witness: That is correct. They are.

Mr. Mouritsen: Thank you.

Q. Now, Mr. Weisbacker, what hours do the night street men work?

A. You mean our night district men?

Q. Yes.

A. I think they come on duty around six o'clock.

Q. And work until what time?

A. Well, now, the hours—they work possibly until around two o'clock or 2:30. I don't know right offhand. I think Mr. Hampson could answer that question better, possibly, because he is on duty with these men at night.

Q. And generally what hours do the so called a.m. independent district managers work?

A. Well, I am not down there when they come down in the morning. I haven't any idea wl hours they put in. They are strictly independent dealers and we do not tell them what they can do. [1489]

Q. (By Mr. Mouritsen) And what hours do the ten mile men work?

A. I think that same answer would apply to the ten mile men.

Q. And Bill Seebolt?

A. I think Mr. Hampson could answer that

(Testimony of John C. Weisbacker.)

question better, because Mr. Seebolt comes on duty early in the morning, and I don't know what time he checks—checks out.

Mr. Hall: Mr. Seebolt is in the courtroom, Mr. Mouritsen. Go ahead; I will have him here for the response to that question, if you want him.

Mr. Mouritsen: I think that is all.

Trial Examiner Kennedy: Cross examine.

Mr. Hall: I will reserve the further examination of Mr. Weisbacker until I come to put on the Examiner's case.

Trial Examiner Kennedy: Anything further from this witness? You are excused. [1490].

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of the witness, John G. Weisbacker, has no application to the Los Angeles Times case?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: The same stipulation as to the Los Angeles Evening Herald and Express, Mr. Mouritsen?

Mr. Mouritsen: Yes, I think so.

Mr. Compton: And for the Stockholders Publishing Company on behalf of Mr. Binford?

Mr. Mouritsen: So stipulated.

ARTHUR J. HAMPSON

called as a witness on behalf of the National Labor Relations Board having been first duly sworn was examined and testified as follows:

(Testimony of Arthur J. Hampson.)

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Hampson?

A. 634 North Comstock, Whittier.

Q. What is your business or occupation?

A. P. M. Street Sales Manager for the L. A. Examiner.

Q. How long have you held that position?

A. Two years.

Q. And prior to that time were you connected with the Examiner? [1491] A. I was.

Q. In what capacity?

A. District man.

Q. Night or morning? A. Night.

Q. Are you acquainted with the duties of the—strike that. What in your present capacity are your duties?

A. I am in charge of the night street men.

Q. Will you tell us what you do in that capacity?

A. Why, I am responsible for the men to be there at a certain time, see that they get their papers, that they check in, and that they get the best sale possible.

Q. Can you elaborate more on just what you do in that capacity?

Mr. Hall: I think what he wants, Mr. Hampson, is for you to state the course of your duties, say on a given day from the time you go to work until you get back, or cease work. Is that right, Mr. Mouritsen?

(Testimony of Arthur J. Hampson.)

Mr. Mouritsen: That is entirely correct, Mr. Hall. Thank you.

The Witness: Well, I have to get the amount of papers that each man desires, turn it over as a press order; see that all men are there on time ready to go out with the papers, keep in touch with the editorial department for any news—any change in the news; inform the boys what it is; certain reports and things to make out to be turned in upstairs; and [1492] see they are checked in before they go home.

Q. (By Mr. Mouritsen) At what time of the day do your duties usually commence?

A. My duties commence about four o'clock in the afternoon.

Q. All right. When do these night men report for duty? A. Six o'clock.

Q. How late do you remain?

A. Oh, my hours vary.

Q. In general? A. In general.

Q. In general how late do you remain at the office?

A. Oh, sometimes leave at 3:30, 4:00, 5:00, 6:00.

Q. At what time do you generally check these P.M. men in?

A. They are required to be in by 2:00 o'clock.

Q. And what do they do at that time so far as you are concerned?

A. Why, they turn in their papers, figure their bill, count their money, put it in their bag, seal it

(Testimony of Arthur J. Hampson.)

and drop it in the safe.

Q. You supervise that work; it is part of your duty to see that that is done?

A. To see that they drop their money in the safe before they go home, yes sir.

Q. Do you of your own knowledge know whether or not these night district men distribute the Los Angeles Examiner to newsboys? [1493]

A. They do.

Q. Do they distribute newspapers, the Los Angeles Examiner, to other than newsboys?

A. No.

Q. And how many of these night district men are there? A. 24 counting myself.

Q. Well, you do not engage in the actual distribution of papers to newsboys at the present time; is that correct? A. I do not.

Q. There would be 23 night district men at the present time?

A. That is, counting the extra men, the relief men.

Q. How many are there? How many regular night district men are there?

A. 15.

Q. What are their names?

A. Their names?

Q. Yes.

A. Max Vener. Nick Valenty. [1494]

Q. Where do these night district men operate, within or without the city of Los Angeles?

(Testimony of Arthur J. Hampson.)

A. Their territories overlap the city limits.

Q. Some of them work outside of the city limits?

A. Part of the territory is outside, part of it is in; it is what we consider the city.

Q. Now, at what price do you furnish newspapers to these night district men?

A. The night district men has a set figure, a certain price of three cents. Anything over that is a cent and a half.

Q. And who determines the number of papers that they receive at three cents?

A. We figure his setup in the office.

Mr. Hall: Pardon me. You meant by "they" in the last question, the night district men?

Mr. Mouritsen: Yes. [1495]

Q. (By Mr. Mouritsen) What do you mean by the figure is set up in the office?

A. It comes from Mr. Weisbacker.

Q. And all papers above that they receive at a cent and a half a copy; is that correct?

A. Yes, sir.

Q. Is that changed from time to time?

A. It has been, yes.

Q. And by whom has it been changed?

A. I believe it was Mr. Weisbacker.

Q. And who determines the number of papers that they take out?

A. Themselves.

Q. Do they have a standing order?

(Testimony of Arthur J. Hampson.)

A. No sir, they do not.

Q. Do they to your knowledge from time to time change the amount of papers that they take out of an evening?

A. They do, according to the news.

Q. Is there an established price for the sale of the papers to the public? [1496]

The Witness: Five cents.

Trial Examiner Kennedy: All right go ahead.

Q. (By Mr. Mouritsen) And by whom is the price established? Mr. Weisbacker?

A. I don't know who established it.

Mr. Hall: I will stipulate, Mr. Mouritsen, that the corporation from time to time establishes that price, which is printed plainly on the first page of the newspaper.

Q. (By Mr. Mouritsen) Mr. Hampson, from time to time during the period that you have been head of these night men have you furnished them with advertising placards similar to [1497] Board's Exhibit No. 7?

A. Somewhat similar, yes.

Q. With a different name on the placard?

A. Sure.

Q. And have you from time to time furnished them other things, such as maps for display?

A. We have.

Q. And have you given them any instructions with reference to those advertising placards and maps? The answer is yes or no.

(Testimony of Arthur J. Hampson.)

A. Given them to the district men?

Q. Yes. A. Yes.

Mr. Mouritsen: I believe you are willing to stipulate, Mr. Hall, that the Examiner from time to time has furnished to newsboys selling the Los Angeles Examiner change aprons?

Mr. Hall: I will so stipulate, Mr. Mouritsen. Of course, I don't want my stipulation to preclude further inquiry upon that subject when I come to my presentation.

Mr. Mouritsen: No, that may be understood.

Mr. Hall: I want to show the conditions under which the aprons were furnished, but it is a fact, which I will stipulate, that from time to time change aprons have been furnished the newsboys by the managers—to certain of the newsboys; not by any means to all of them. [1498]

Mr. Mouritsen: I am merely trying to save time with this witness. I mean it would not be necessary, then, to go into that with this witness. His organization has furnished them to the newsboys who sell at night; is that right?

Mr. Hall: To certain newsboys, yes. [1499]

Q. (By Mr. Mouritsen) Mr. Hampson, I will show you a document that has been marked Board's Exhibit No. 16 for identification, and I will ask you, directing your attention only to that part of the picture that sets out what might be termed a change apron, upon which the words "Examiner — Best Sports News" appear, if that is a correct picturiza-

(Testimony of Arthur J. Hampson.)

tion of change aprons furnished by the Los Angeles Examiner to certain newsboys. [1500]

A. It is a correct picture of the apron.

Mr. Mouritsen: I will offer that in evidence, restricting my offer to that part only of the picture that shows the change apron.

Trial Examiner Kennedy: Received.

(The document referred to was received in evidence and marked Board's Exhibit No. 16.)

NATIONAL LABOR RELATIONS BOARD

CASE NO. XXI-R- 2276 (BOARD / PETITIONER / RESPONDENT / INTERVENOR) EXHIBIT NO. 16

IN THE MATTER OF Stockholders Publishing Co.

DATE 6-22-46 WITNESS Hampson

DANIEL W. ROSS, OFFICIAL REPORTER

BY Frazier

(Testimony of Arthur J. Hampson.)

Mr. Mouritsen: May the record show that I have exhibited the document, Board's Exhibit No. 17 for identification, to Mr. Hall, counsel for the Examiner?

Q. Now, Mr. Hampson, I will show you a picture containing two boxes, and I direct your attention to the box on the left-hand side of the picture, which contains what appears to be an advertising placard. I will ask you if that advertising placard is characteristic of the placards that you have furnished these night district men.

A. I don't recall ever furnishing the night district men a placard of that kind.

Q. But you have furnished them placards that are similar to [1501] that in appearance and subject matter; is that correct? A. I have.

Now, Mr. Hampson, were you head of the night men during the time when the American Legion convention was last held in the city of Los Angeles?

A. I believe I was.

Q. And can you fix that approximate time?

A. No, I cannot.

Mr. Hall: My recollection is that it was in September of 1938. Isn't that about right, Mr. Mouritsen?

Mr. Mouritsen: I believe that is correct.

Mr. Hall: Well, if you want to, I will stipulate, subject to correction by either of us on further check, that the national convention of the American Legion did occur in Los Angeles in September of 1938.

(Testimony of Arthur J. Hampson.)

Mr. Mouritsen: I will accept the stipulation.

Q. And at that time, Mr. Hampson, did you furnish to the night district men certain caps resembling the caps worn by Legionnaires, bearing advertising matter of the Examiner? [1502]

The Witness: Those that requested them, yes.

Mr. Mouritsen: I think that is all with this witness.

Mr. Hall: As in the case of Mr. Weisbaecker, I would like to reserve the right to examine this witness further when I come to the Examiner's case.

Trial Examiner Kennedy: Any further examination? You are excused. [1503]

Mr. Compton: Before we recess, may we have a stipulation from Mr. Mouritsen concerning the testimony of this last witness, that the same shall not be deemed applicable to the Los Angeles Evening Herald and Express Department of Hearst Publications, Inc.?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: And may we have on behalf of Mr. Binford the same stipulation for the Stockholders Publishing Company, Inc.?

Mr. Mouritsen: That may be so stipulated.

Mr. Cosgrove: And may it be stipulated that the testimony of the witness Hampson has no application to the Los Angeles Times case?

Mr. Mouritsen: That may be so stipulated. [1504]

Monday, June 24, 1940

Met, pursuant to adjournment, at 9:30 o'clock a. m. [1507]

WILLIAM H. SEEBOLT

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [1509]

Direct Examination

Q. (By Mr. Mouritsen) Mr. Seebolt, where do you live?

A. 722 West 56th Street, Los Angeles.

Q. And what is your business or occupation?

A. I am a district man or a wholesaler, or whatever you want to call it.

Q. With what paper?

A. The Los Angeles Examiner.

Q. How long have you held that position?

A. Well, this position I am now on, I have been down there six years on this, but I have been working eighteen years, night and morning.

Q. You are on the Examiner payroll, is that correct? A. Yes, sir.

Q. And receive checks from Examiner for the duties you perform? A. Yes, sir.

Q. And Social Security and Unemployment Insurance deductions are made from those checks?

A. Yes, sir.

Q. (By Mr. Mouritsen) Will you explain briefly, Mr. Seebolt, [1510] what your duties are

(Testimony of William H. Seebolt.)

in your present position and indicate what you do, as a general rule, during the period of your employment, starting at the beginning?

A. Well, I pick up the papers and take them around to various points and sell them to newsboys or give them to them to sell.

Q. What time——

A. (Interrupting) Four o'clock in the morning—a quarter to five I leave the office. I get down at four but I leave the office at a quarter to five, according to how the run is; sometimes earlier and sometimes a little later.

Q. And who determines the number of papers that you take out every morning?

A. Well, they leave it up to me, according to what kind of headlines. I use my own judgment.

Q. And after you pick the papers up at the plant, what next do you do?

A. Well, I take them around and leave them at different corners. Sometimes I leave a bunch off at Sixth and Main and I leave off a bunch at Seventh and Grand, and then I come back and re-cover them around again. If they need any more I give them more. I make two or three runs with them.

Q. Do you make only two stops in making your deliveries in the morning, the first round? [1511]

A. I make more than that. First I go to Ninth and Broadway and Ninth and Main, and up to 8th and Broadway, and 8th and Figueroa, and 6th

(Testimony of William H. Seebolt.)

and Figueroa and 3rd and Figueroa, and then 7th and Grand and 7th and Hill and 5th and Hill, and then 7th and Broadway and 7th and Spring and 7th and Main, and then to 6th and Main, there is a bunch of the salesmen there to get them, and I hand them out, that is, a small quantity, and then I go back to the office and get some more and bring them around myself all over.

Q. Is that still of the first edition or a little later edition?

A. That is the first edition in the morning, and then we generally have another one out at six or six-thirty in the morning, according to what kind of news it is, during this war trouble. When the war is not on, we only have one edition, the nine a. m. final.

Q. And what do you call this other edition?

A. A replate. It is the nine a. m. final but it is a replate.

Q. And do you distribute the Examiner to newsboys within the area that you have outlined?

A. Yes, sir.

Q. Do you distribute them to anyone else other than newsboys within that area? [1512]

A. I don't, only they come to the places where they have been doing it for years, like 7th and Grand and 2nd and Spring, they are sent up by truck.

Q. Now, approximately how many newsboys come to 7th and Grand to obtain their papers?

(Testimony of William H. Seebolt.)

A. Well, there is eight, I think, but there is more than that comes there to pay for them, because I put out papers that comes to that area myself, out of my car, the first and second editions in the morning. They are always on the corners and we give them a small amount to go there until we come out with a different headline.

Q. Well, approximately how many boys come to obtain papers from you at—did you say 2nd and——

A. (Interrupting) No; 6th and Main is where I generally go. I have about sixteen all together come there. Some of them I take myself and I think it is nine of them that come there to get them, a small amount, five or ten, and I go around to give the rest that is on their corners; like 5th and Main and 7th and Central, and them spots, I take them all down myself. They stay right on their corners.

Q. Now, at Sixth and Main do you count out the papers you sell to those newsboys who come to that spot?

A. I give them five per cent of whatever they want, whatever they think they can sell.

Q. Do you count them out yourself? [1513].

A. Yes.

Q. How long have you been doing that?

A. Well, ever since I have been working down there; that is, the last six years on this morning side.

(Testimony of William H. Seebolt.)

Q. Haven't you on occasions had newsboys count out those papers to other people, to the newsboys who come?

A. At Sixth and Main?

Q. Yes. A. No, sir.

Q. How about this other spot? There is a newsboy there that counts them out?

Mr. Hall: Will you fix what you mean by "this other spot"?

Mr. Mouritsen: I am attempting to do that.

Q. (By Mr. Mouritsen) What is this other spot?

A. Seventh and Main and Second and Spring.

Q. How many boys come to Seventh and Main?

A. Well, there is eight comes up there to get papers, but there is more than that comes to pay for them when they check in, when they come to pay for their papers when they are through.

Q. Is there a newsboy on Seventh and Grand that counts out the papers to these other boys?

A. Yes.

Q. Who is doing that at present? [1514]

A. Well, there is a man that counts the Times and the News and the Examiner there.

Q. What is his name?

A. His name is Marsh. I don't know his first name. His last name is Marsh.

Q. To how many boys does he count out papers? The eight?

A. The eight. But he received more than that.

(Testimony of William H. Seebolt.)

He receives what I put out of my car. But all he handles there is eight men that comes to get the papers off of him.

Q. How does it happen that he counts the papers out to the other boys on that spot?

A. Well, it just saves time.

Q. (By Mr. Mouritsen) Now, Mr. Seebolt, how does it happen that this man at Seventh and Grand counts out the papers to these other eight newsboys?

A. That is all that gets them. The rest of them I put [1515] there myself out of my car.

Q. (By Mr. Mouritsen) At Sixth and Main you count them out yourself; is that correct?

A. Yes, sir. Part of them there at that spot, then I go around in my car to wherever they—some of them come on later than others; some of them earlier, like Fifth and Grand.

Q. At Seventh and Main, I understand, Mr. Marsh counts out the papers? A. Yes.

Q. Who made the arrangement whereby Mr. Marsh counts out these papers to these other newsboys? A. I made it myself.

Q. How did you do that?

A. It was for the benefit of the——

Mr. Mouritsen: That may go out.

Q. The question is, how did you make that arrangement?

A. I just put them off there. He watched them for me [1516] and put them out.

(Testimony of William H. Seebolt.)

Q. Why does he watch them for you?

A. I don't understand how you mean.

Q. Well, as a matter of fact, didn't you tell Mr. Marsh to watch them for you?

A. Well, yes.

Q. Didn't you tell him to count them out to these other newsboys who came to Seventh and Grand? A. Yes.

Q. Do you pay Mr. Marsh anything for that?

A. I pay him myself; the office don't pay him.

Q. (By Mr. Mouritsen) I believe you named another spot, other than Seventh and Grand and Sixth and Main, where a number of newsboys come to get their papers, is that correct?

A. I did.

Q. Now, what was that?

A. Second and Spring.

Q. And is there a newsboy there who counts the papers out to the other newsboys?

A. Yes, sir.

Q. Who is that? [1517]

A. His name is Harry. I don't know his last name. That's all I know him by.

Q. To how many boys does he count out papers on a morning?

A. Ten—ten or twelve, I don't know just exactly which.

Q. Did you also tell Harry to do that?

A. Yes, sir.

Q. You also paid Harry for that work?

(Testimony of William H. Seebolt.)

A. Yes, I do myself.

Q. To how many newsboys do you distribute newspapers on the morning on your rounds?

A. I don't know exactly. It is around fifty-eight or sixty with all three spots.

Q. Are these older men to whom you distribute the papers or are they young school boys?

A. All men, and one or two women. Mostly all men. Two women in the whole works.

Q. Within your district are there any newsboys or school boys who sell the Examiner in the morning?

A. Not for us they don't.

Q. How do you check in newsboys to whom you distribute the papers?

A. Well, I check the majority from Broadway to Fifth Street, to Central Avenue, and Ninth Street, over at Sixth and Main myself where they come to pay me for the papers.

Q. Do all the newsboys within that area come to a certain [1518] location to check in?

A. For the Times and Examiners and Daily News, yes; all three of us there together.

Q. But you are there; is that right?

A. I am there at that spot.

Q. And the newsboys come to that spot to check in?

A. From Broadway over, yes—from Fifth and Broadway to Eleventh and Broadway, and from Broadway to Central Avenue.

(Testimony of William H. Seebolt.)

Q. Are there any newsboys who sell Examiners within that area for whom you check in other than at that spot? A. No.

Q. Now, what do you understand the term "main spot newsboy" to mean?

A. Main spot?

Q. Main spot newsboy.

A. Those are the spots that sell the most papers. Some of them all sell about the same.

Q. What is the difference between main-spot newsboy and off-spot newsboys, if there is a difference?

A. Well, one is where one sells more than the other.

Q. Do the main-spot newsboys as a general rule receive the papers from you and count them out to the off-spot boys? A. Yes, sir. [1519]

Q. Do you understand the term "traffic spot"?

A. I have none of them. We have none of them in the morning.

Q. What do you understand by the term "traffic spot"?

The Witness: The only thing is, that I know of, a man selling out in the traffic or something like that is all I know about.

Q. (By Mr. Mouritsen) Now, during the time that you have been in this area, have been working in the area that you have described, have you put on any additional newsboys on any of these spots that you cover?

(Testimony of William H. Seebolt.)

A. Not lately, unless somebody gets a job at something else or tells me they don't want to sell any more. That has been——

Q. (Interrupting) And you—pardon me.

A. Which has been about seven or eight months since we have, that is, with the exception of two or three real small spots that we didn't have no place else—have anybody to sell. Some of them will and some won't go. We would rather do that than to go around trying to sell them.

Q. Am I correct in understanding that you have made no [1520] more than two changes in in the last six or seven months in that area?

A. I have not.

Q. The same newsboys have been operating on those spots in the area that you cover?

A. That is right. Unless a man gets sick, and we tell him somebody else wants to sell his corner, and we send him down there, tell him where to go, and if he don't want to go it's up to him.

Q. In the past two years have you put any new newsboys on the spots which you cover?

A. No, I have not.

Q. During the past two years have you taken any newsboys off the spots? A. No.

Q. (By Mr. Mouritsen) During the past year have you changed any newsboys in that area from one spot to another?

A. No, sir. Any further change—only one fellow was [1521] sick and another fellow took his

(Testimony of William H. Seebolt.)

place to check in where he sells at. This fellow is in Sawtelle at the hospital and he has been over there about four years.

Q. Now, during the past two years have you turned in any report showing the places where you leave papers and the approximate number of papers that you leave at such spots?

A. Turn them in to whom?

Q. To the office.

A. No, sir. The only place the office sends papers to is Second and Hill, the first bunch, and the next I take down—or Second and Spring.

Q. Have you taken a vacation during the last two years? A. Last year I did.

Q. And who did your work during your absence, if you know?

A. Well, the relief man that is there, one of the extra men that works for the Examiner. I don't know just how many they have got, but they switch them around when we take our vacations.

Q. Did you make out a list for him showing the spots where you left the papers, and how many you left, approximately, at those spots?

A. Yes, sir. [1522]

The Witness: He has been working extra for Mondays and Saturdays that I have off days. He knows them all.

Q. (By Trial Examiner Kennedy) I understood you to answer "yes" to that question.

A. I would make out a list, but he knows them.

(Testimony of William H. Seebolt.)

I had made out a list when he went on. That was over a year ago.

Q. (By Mr. Mouritsen) Well, Mr. Seebolt, the question was, did you or did you not make out a list for the man who took your place during your vacation? A. Yes, sir.

Q. What did you do with the list?

A. I gave it to him.

Q. And who was that?

A. Well, Branado. I don't know what his first name is. Branado was his last name. He was working for my vacation. B-r-a-n-a-d-o, I think it is.

Q. And is he also known as Blackie Costello?

A. I don't know that. All I know is Branado, the way he signs his name on the check-in slips that we turn in to the office. [1523]

Q. Now, how much do you collect from the newsboys within your area per paper when they check in to you? A. For each paper?

Q. For each paper.

A. Well, all of them, they check in three cents for each one they sell. What they don't sell they hand their papers back.

Q. Do you also distribute the papers in the area that you have named on Sundays, Sunday mornings?

A. I distribute all the papers, check in with all of them on Sunday morning myself, individually.

Q. And do the papers appear at a different hour, the Sunday edition, than the week-day edition?

A. Yes, sir.

(Testimony of William H. Seebolt.)

Q. And what is the hour on Sunday that the Sunday copies of the paper first appear?

A. Well, the first time, I get them at three o'clock Sunday morning. That is the last paper—the last Sunday morning paper that is printed.

Q. I see.

And you distribute the papers then at or about three o'clock on Sunday?

A. Some of them. I go to Sixth and Main and put them out five at a time there when they come around about six-thirty or seven o'clock, according to whether we are late or [1524] no, whether we get a truck or not.

Q. Now, during the past two years, have you started leaving papers at a spot that you did not leave them at before? A. No, sir.

Q. And on Sunday mornings do you have any other spots, where a number of newsboys come to secure the papers you distribute?

A. No, sir. Everything I distribute myself either out of my car or off the truck.

Q. Within your area, do you have any newsboys who handle Sunday only copies of the paper?

A. Sometimes the fellows don't want to sell on Sunday, sells all three papers, and we have to find somebody who wants to sell. If we don't, we don't have nobody to sell them.

Q. Well, do you have anybody in the area who sells the Sunday only copies of the Examiner?

A. Sometimes we do and sometimes we don't.

(Testimony of William H. Seebolt.)

Q. In your area? A. Yes, sir.

Q. Well, do you at the present time have any newsboys in your area who sell Sunday only copies of the Examiner?

A. Well, we had one new one—I didn't work last Sunday and I don't know, but Sunday before last we didn't have [1525] any. There was two places they could have been sold but nobody showed up to sell them and we just didn't send any out.

Q. The most of the newsboys in the area you cover work five or more days a week?

A. Some of them do and some of them don't.

Q. Well, most of them do, do they not?

A. Most of them sell five days a week, some of them six.

Q. Approximately how many are there who do not sell on Sundays?

A. Well, it is kind of hard for me to figure that up right now. I would have to take and check up.

Mr. Hall: I will be glad to have him bring out the fact that these fifty-eight or sixty newsboys that he has referred to are within what we may call your elaboration of the description.

Mr. Mouritsen: Thank you. I accept that.

Mr. Hall: I have no objection to that line of inquiry. [1526]

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Hall) What are the boundaries of the downtown area within which you sell papers to newsboys?

(Testimony of William H. Seebolt.)

A. From 11th and Broadway to Temple and Broadway, and from Figueroa to Central Avenue, for me.

Q. Well, then, if I understand you correctly, the area would be bounded on the north by Temple Street? A. Yes.

Q. On the south by Eleventh Street?

A. Yes, sir.

Q. On the west by Figueroa Street?

A. Yes, sir.

Q. And on the east by Central Avenue?

A. Yes.

Q. Now, then, when you refer to checking in you have reference to the act of making payment for papers received; isn't that right?

A. Yes, sir.

Q. The term "drawing papers" is applied to the operation that the newsboy goes through when he receives the papers for resale; is that right?

A. Yes, sir.

Q. Does this man named Marsh who checks in for you at Seventh and Grand Avenue sell any other newspapers besides [1527] the Examiner?

A. Yes, sir.

Q. What other newspapers?

A. The Times and the Daily News or the Morning News.

Q. What territory does he occupy to make those sales?

A. Just at Seventh and Grand.

Q. Now, this man named Harry who checks in

(Testimony of William H. Seebolt.)

at Second and Spring, does he sell any other newspapers besides the Examiner, the Los Angeles Examiner?

A. The Los Angeles Times, yes.

Q. Where does he make his sales?

A. Fifth and Hill.

Q. At the session of this hearing on June 22, 1940, the following definition was read into the record by counsel for the Board, and I am going to read it to you:

"All newsboys engaged in the street sale of the Los Angeles Examiner at established spots four or more hours per day, five or more days per week, within the city of Los Angeles, California, except temporary newsboys. An established spot is a place where a newsboy has engaged in the street sale of the Los Angeles Examiner five or more days per week for a period of six consecutive months or more. A temporary newsboy is a newsboy who has been engaged in the street sale of the Los Angeles Examiner at an established spot for thirty days or less." [1528]

My question now to you is this: Are these fifty-eight or sixty newsboys that you have made reference to, who buy their newspapers from you, newsboys engaged in the street sale of the Los Angeles Examiner at established spots four or more hours per day, five or more days per week, within the city of Los Angeles, except temporary newsboys? A. You mean, do they?

(Testimony of William H. Seebolt.)

Q. Do they qualify under that definition?

A. I don't know just how you mean that.

Q. Well, let me split it up a little. Are these fifty-eight or sixty newsboys you have referred to newsboys that occupy established spots — and I mean by that a spot where a newsboy has engaged in the sale of the Los Angeles Examiner five or more days per week for a period of six months or more.

A. Some of them do and some of them don't. We don't have any jurisdiction over them. They can do whatever they want to do.

Q. But about how many would you say occupy established spots?

A. Well, most all of them that is down there— most all of them that has been down there any length of time since I have been working down there. Some of them has been working down there twenty years or twenty-five years, selling there.

[1529]

Q. Would you say all those fifty-eight or sixty occupy established spots?

A. I don't know just exactly how many.

Q. Are any of those fifty-eight or sixty temporary newsboys, meaning by that a newsboy who has engaged in street sales for thirty days or less?

A. Well, there is not very many; maybe one or two.

Q. And would you say that there might be one or two that didn't occupy established spots?

(Testimony of William H. Seebolt.)

A. Just about that many.

Q. And all the rest except those one or two——

A. (Interrupting) Yes, sir.

Q. (Continuing) ——sell the Examiner for four or more hours per day, five or more days per week, is that right? A. Yes, sir.

Q. And they all sell the Los Angeles Examiner within that territory that you described, bounded by Temple and Eleventh Street and Figueroa and Central Avenue, don't they? A. Yes, sir.

Q. None of these newsboys sell the Los Angeles Examiner outside of that area, do they?

A. No, sir.

Q. Do you transport any newsboys from any spot to a location where they make their sales of the Examiner? A. No, sir. [1530]

Q. Aside from these two men that you have mentioned, one named Marsh and the other named Harry, do you pay any newsboys any money?

A. No, sir.

Q. Will you tell us about how many of the newsboys within the territory you have referred to sell in addition to the Examiner the Times and the News?

A. Well, I would have to figure it; I would have to figure up all of them corners. There is at least half of them.

Q. Now, I think you have stated that on the daily papers, you sell the papers to the newsboys at three cents a copy, is that right? A. Yes.

(Testimony of William H. Seebolt.)

Q. How about the Sunday papers? What do you sell those to the boys for?

A. Eight cents apiece.

Q. Do you handle any news racks?

A. No, sir. [1531]

Q. You haven't within the last two years put out any news racks? A. No, sir.

Q. Within the last two years have you put out any boxes? A. No, sir.

Q. Now, tell us about the situation as to aprons, change aprons.

A. Well, as a rule we never in the mornings, because we have all been down there together and it would be showing partiality to one to give one and not the other, unless they come around with an apron, they get it somewhere else. We have requests for them.

Q. Do the boys ask you for aprons?

A. Yes. I tell them I will try and get one.

Q. Do you ever hand out aprons unless requested so to do by the boys?

A. I don't, no, sir.

Q. Is it or is it not true that newsboys in your territory selling the Los Angeles Examiner will wear aprons with some name on the apron other than "Los Angeles Examiner"?

A. Yes, it is true.

Q. In the testimony at the last session by Mr. Hampson, reference was made to cards and maps. Will you state what you have to do or what you do

(Testimony of William H. Seebolt.)

with reference to cards advertising the Los Angeles Examiner and the maps that were referred to by Mr. Hampson?

A. Well, I never have anything to do with them because they are always—when I come to work they are always up [1532] by the corneres or—we don't have as many corners to put them as they do at night or in the week days. In the week days we never handle them.

Q. Do you tell the newsboys they have to display those cards? A. I do not.

Q. Do you tell the newsboys they have to display those maps? A. I do not.

Q. One of the witnesses made reference to blasting his papers. Did you ever hear that phrase used in the retail newspaper business, blasting papers?

A. I don't understand what that means.

Q. Well, I didn't at the time. Let me put you this question: Some boys, I take it, make more noise than other newsboys, is that right?

A. They have got stronger voices, if that is what you mean.

Q. Well, isn't it a fact some newsboys call their papers and some don't call them very much?

A. Yes.

Q. Do you issue instructions to the newsboys as to how they shall call their papers?

A. No, sir.

Q. Do you leave it up to them entirely as to

(Testimony of William H. Seebolt.)

whether they shall call the papers at all or not? [1533] A. I do.

Q. Suppose at a given corner on a given morning you handed a newsboy a certain number of papers, and the newsboy then and there requested that you give him five or ten more copies of the paper. Would you do so as a matter of practice?

A. Yes, sir.

Q. When you pick up your first load of newspapers in the morning, where do you pick them up?

A. The Los Angeles Examiner.

Q. That is located where—in the city of Los Angeles?

A. Eleventh and Broadway, in the alley, yes, sir.

Q. It is located at what streets in the city of Los Angeles?

A. Between Hill and Broadway is where I pick my papers up, at the mailing room there where they distribute all the papers.

Q. The plant of the Examiner is located at Eleventh and Broadway in the city of Los Angeles, isn't it? A. Yes, sir.

Q. Now, in the Times case the witnesses referring to the plant of the Los Angeles Times have referred to a locality at the plant by designation of concourse. What at the Los Angeles Examiner goes by that name down there?

Mr. Mouritsen: I will stipulate it is known as the alley, I believe. [1534]

Mr. Hall: I will accept the stipulation.

(Testimony of William H. Seebolt.)

Q. Is that correct, Mr. Seebolt?

A. Yes; the alley.

Q. And at the alley there is a loading platform, isn't there? A. Yes.

Q. Now, is it at that platform where you pick up your papers in the morning? A. Yes, sir.

Q. And you pick them up at that place on each time you go to the plant to get papers, isn't that correct?

A. In case of a replate, yes, sir.

Q. Assuming that there is no replate edition on a given morning, do you go to the plant more than once to pick up a load?

A. Well, it is according to how many we take out.

Q. There is no fixed rule about that, in other words? A. No, sir.

Q. Do you as a matter of practice issue instructions to the newsboys as to the time when they must show up at a given corner or place to receive their papers?

A. The only thing, unless they come and request for something, whether they can meet us at such and such a time. If some person comes down and wants to sell papers, why——

Q. (Interrupting) Let's see if I understand you. If a [1535] newsboy asks you when papers are to be dumped at a certain corner or location, you will tell him in advance, won't you? A. Yes.

Q. But aside from that, do you issue instruc-

(Testimony of William H. Seebolt.)

tions to the newsboys in general that they must show up at a given spot to receive their papers at a given time?

A. No, I don't. I just tell them what time I will be there. [1536]

Q. During the last two years have there been any instances where newsboys came to you at the time of the check-in and said that they had lost some of the papers that had been originally delivered to them?

The Witness: They have. [1537]

You recall such an instance, do you, Mr. Seebolt?

A. Well, not lately I haven't had no one come and tell me that.

Q. Well, have you within the last two years?

A. Yes, sir, I have. [1538]

Q. (By Mr. Hall) Under examination by counsel for the Board you have testified that newsboys at the time of the check-in paid you three cents for the newspapers that they had sold, is that right? [1539] A. Yes, sir.

Q. How do you know whether they have sold the newspapers or not?

A. I don't know. I take their word for it.

Q. Is it true that at the time of the check-in the newsboys pay you for all newspapers that they have received except for newspapers which they return to you as unsold?

A. It may happen there is one short, like that, or they claim there is one stolen or something like

(Testimony of William H. Seebolt.)

that. Not all of them.

Q. (By Mr. Hall) Then there are claims made from time to time that a newspaper is stolen, is that true? A. Yes, sir.

Q. What do you do in that type of case?

A. Well, once in a while—we cannot afford to take it all from everyobdy. If they all get in the habit they might come dow and say that they were all short, or stolen.

Q. Is it or is it not a fact that the newsboy himself has to stand that loss?

A. Not all of them, no.

Q. Do they in certain instances? [1540]

A. Well, it is according to how many they sell.

Q. Are there instances where the newsboy is required to stand that loss?

A. There is only very few of them.

Q. When you yourself check in at the Los Angeles Examiner plant you check in, do you not, for the newspapers that you have drawn, claiming credit for returns, isn't that correct?

A. Yes, sir. Every one.

Q. So that if a newsboy is allowed for a lost paper or a stolen paper you have to stand the loss, do you not? A. I do, yes, sir.

Q. Mr. Hampson in his testimony at the last session, referring to night sales, referred to a quota which each district man would draw at three cents, stating that for papers drawn over that quota the district man could draw the papers at a cent and

(Testimony of William H. Seebolt.)

a half. Now, does that quota practice apply in your work with respect to morning sales?

A. No, sir.

Mr. Hall: That is all.

Trial Examiner Kennedy: Is there anything further?

Redirect Examination

Q. (By Mr. Mouritsen) Mr. Seebolt, most of the newsboys within the area that you cover have been on those spots longer than you have been in that area yourself, is that [1541] correct?

A. Yes, sir.

Q. And due to that fact it was not necessary for you to tell the boys what time to appear for the papers, is that correct?

A. Well, they have all known for years down there, just the same as I know, when to come down.

Q. And it was not necessary for you to tell them what to do with the maps or cards that you furnished them, isn't that correct? A. No, sir.

Q. And in those cases it was not necessary for you to tell them where and what time to check in, is that correct? A. Yes, sir.

Q. It was necessary for you to?

A. No, it was not necessary. They know.

Q. And at this place where you check in, how long do you remain there as a general rule?

A. Well, some of them started in at 9:30, quarter to 10:00. I stay there until 10:30 myself.

Q. And when do you first reach there as a general rule? [1542]

(Testimony of William H. Seebolt.)

A. About 9:30, 9:15, maybe 9:00—quarter to. Maybe if I get tied up in traffic it will take me a little longer.

Q. And in order for them to check in with you at that time it is necessary for them to come during the period that you are there, isn't that correct?

A. Well, I am generally always there, unless something serious happens.

Q. Yes. But in order for them to check in at that place they have to come during that period while you are there, isn't that correct?

A. Yes, sir.

Mr. Mouritsen: I think that is all.

Recross Examination

Q. (By Mr. Hall) The money that Marsh and the boy named Harry receive comes out of your pocket, according to your testimony? A. Yes.

Q. That is correct, is it? A. Yes, sir.

Q. Isn't it true that when one of the newsboys who has been selling the Los Angeles Examiner, and possibly other papers, in the morning leaves his location he will leave his Los Angeles Examiner newspapers with the Herald boy for [1543] resale by the latter? A. Yes, sir.

Q. (By Mr. Hall) Does the Los Angeles Examiner boy leave his papers with the Herald boy as a result of any instructions that you give the Los Angeles Examiner newsboy?

A. I do not. It has been the custom for years

(Testimony of William H. Seebolt.)

down there, since the Herald and Examiner has been working together.

Mr. Hall: That is all. [1544]

Mr. L. B. Binford: Before the recess, may we have a stipulation, Mr. Mouritsen, that the testimony of this witness so far as the Stockholders Publishing Company is concerned is not applicable?

Mr. Mouritsen: Yes, that may be so stipulated.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of the witness William H. Seebolt has no application to the Los Angeles Times case?

Mr. Mouritsen: It may be so stipulated. [1547]

Mr. Mouritsen: May this be marked Board's exhibit [1458] next in order?

The Reporter: It will be marked Board's Exhibit 19 for identification.

(The document referred to was marked as Board's Exhibit No. 19 for identification.)

[1549]

BOARD'S EXHIBIT No. 19

Los Angeles Newsboys C. I. O. Local
Industrial Union No. 75
Room 304—Currier Building
212 W. 3rd St., Los Angeles
Phone MUtual 5747
111 [Union Label]

President—Ben Rothman
Vice-President and Organizer—Pat Comorre
Treasurer—Rubin Charin
Trustees—Leonard Sherman, Edward Patch, Phil Spampinotti
Executive Board Members—C. Sanchez, W. Axelrod, Jake Bell, D. Overstreet, A. B. Collins, M. Lininger, James Deutsch, Roy Barr, R. M. Powers, O. T. Austin
Sgt.-at-Arms—Will Allen
Secretary, Arthur Page

November 9, 1939.

Mr. A. F. Logan, Bus. Mgr.
Los Angeles Examiner
Los Angeles, California

Dear Mr. Logan:

Upon the death of Arthur Page, I was duly elected Acting Secretary of the Newsboys L. I. Union # 75, and in looking over the files in the office, I find that several attempts to meet with you to negotiate some sort of an agreement for the newsboys selling your paper have been of no avail.

In one instance, I find on file in my office a copy of a letter addressed to Mr. Maurice W. Howard, Field Examiner of the National Labor Relations Board signed by you, in which you state that prior to your coming to Los Angeles you were managing the Seattle Times and that (quote) "In the first place, we recognize Federal Laws as something to be complied with unequivocally and we will not tolerate any irregular act on the part of any of our executives or employees". Therefore, I take it for granted that my asking you to set a date at which time a committee of newsboys (members of the Union) may meet with you to discuss conditions of the newsboys as they apply to your publication and methods of bettering those conditions will not be out of place. Therefore, may I suggest that you set a date in the near future, at which time I hope we can come to a mutual understanding on this problem.

Awaiting your early reply, may I remain

Yours sincerely,

R. ELEY,

Acting Secretary.

RE:er

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(Attached envelope):

From News Boy's Local Industrial Union No. 75 C.I.O., 212 West 3rd Street, Los Angeles, Calif. 111 [Union Label] To Mr. A. F. Logan, Bus:

Mgr., Los Angeles Examiner, Los Angeles, California. (Stamped): Registered Nov. 9, 1939, 204586. Return receipt requested. Fee paid.

Trial Examiner Kennedy: Well, now, in considering this objection, what is the situation with regard to securing a payroll or a list of persons allegedly working for the Los Angeles Examiner whose names might appear on these cards?

Mr. Mouritsen: Well, I have requested such a list of Mr. Hall and I believe Mr. Hall has explained in the record the situation with reference to his being able to obtain such a list. If that is not in the record perhaps Mr. Hall would clarify that.

Mr. Hall: Well, no such list exists, if the Examiner please. As to the possibility of preparing such a list, I am doubtful concerning that. The contacts that might be employed for the purpose of procuring a list are not, as in [1552] the case of some of the other newspapers, employees of the Los Angeles Examiner.

For example, men have been mentioned or were mentioned last week in the record as A. M. independents. The newspaper takes the position and maintains, truthfully, I believe, upon the facts, that those men are not employees.

To procure such a list, therefore, or to procure that part of the list within the knowledge of these A. M. independents, we would in effect be going to

our wholesale dealers and saying to them, "Supply us with a list of your retail dealers, your retail outlets."

The practical difficulty of even inaugu ting an attempt of that kind is illustrated by the fact, further, that it wasn't until last Saturday that we knew what the character of person was that is alleged to be the kind of person that composes the alleged bargaining unit, and if despite the other difficulties that I have called attention to we could have prepared a list it would apparently have been not the list that counsel has in his mind.

The difficulties of this thing, I think, are manifest by what already appears in the record with respect to the Los Angeles Times. Mr. Cosgrove, I think, stated that it took approximately a month to compile that list and it appeared last Saturday that the list is not at all what the attorney for the Board wants. [1553]

CHARLES SEKLEMIAN

called as a witness by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Charles? A. 1519 North Western Avenue.

Q. Do you at present handle the Los Angeles Examiner? A. I do.

(Testimony of Charles Seklemian.)

Q. Where do you handle it?

A. Sunset and Western. Northwest corner of Sunset and Western.

Q. How long have you held that spot?

A. On that particular spot since early 1935. [1557]

Q. (By Mr. Mouritsen) What spot did you have immediately prior to your present spot?

A. The off-spot on Hollywood and Western. That would be the northeast corner. [1558]

Q. From whom did you obtain your present spot? A. From Bill Barrows.

Q. Was he also your district man on the other spot, the [1559] one that you owned prior?

A. That is right.

Q. Who is your present district manager for the Los Angeles Examiner?

A. Nick Velanty, or Volanty, I am not positive which way it is pronounced.

Q. Have you ever had a conversation with him relative to the manner in which you operate on your spot?

A. Well, the most recent one was Friday evening. Last Friday evening.

Q. Where did the conversation occur?

A. On my corner—on the opposite corner from where I sell.

Q. Was anyone else there other than you and Velanty?

(Testimony of Charles Seklemian.)

A. There might have been others on the corner, but I don't think they were in hearing distance.

Q. Now will you state what you said to Velahty and what he said to you?

A. Well, when he first came up—or, when he came up with the double C's I had twenty-six Peaches left out of the amount of the total, being fifty up until that time, and he looked at me rather peeved and disgusted and he said, "Do you mean to tell me twenty-four is all you have sold?"

I said, "Well, they are going rough." I said, "I have had good nights here. You will admit if you want to." [1560] I said, "Unfortunately, I have got a rough night tonight," and that got him to the extent where he * * *

The Witness: Well, he said, "All the other corners are doing all right. What is the matter with you here?"

I repeated that I had better nights previously, and I could have better nights in the future, but unfortunately Friday night was a rough night and I have no control over it.

Q. (By Mr. Mouritsen) What, if anything, further did he say?

A. Well, he left me twenty-five more double C's and now that I recollect I took fifteen of my Peaches over to him, which I had been doing prior, and he refused to trade me and told me to keep selling—keep pushing.

(Testimony of Charles Seklemian.)

Q. What are these Peaches you are telling about?

A. The first edition that comes out; the double C's are the second.

Q. The Peaches are the first edition of the paper that you handle? [1561] A. That is right.

Q. Will you tell us further what Velanty said to you regarding your manner of operating?

A. Well, later on, along about 10:20—it might have been about 10:30 that evening when he got around, and he inquired again.

Q. Well, now, wait a minute. Where did this—did you have another conversation with him about that time?

A. Well, he pulled that out and he left me the twenty-five doubles, and instructed me to keep pushing the Peaches. That is when he first came out with the double C's. So, on the 10:30 recovery he pulled over by the drug store in front of which I sell and——

Q. (Interrupting) Was anyone else there with him? A. Yes. I believe there was.

Q. Who else was with him, if you knew him?

A. Some other hustler who I don't know by name.

Q. Was anyone else present other than you, Velanty and this other hustler?

A. Not within hearing distance. There might have been somebody around the corner.

Q. Will you state what Velanty said to you and

(Testimony of Charles Seklemian.)

A. Well, on that occasion he seemed to be very much upset. [1562]

Tell us what he said.

The Witness: So he said, "So you put me behind the eight ball, did you?"

I said, "What do you mean?"

He said, "You know what I mean."

I said, "Well, just explain yourself."

He said, "Well," he said, "you have no business to go shooting off your mouth."

I said, "Now, wait a minute," I said, "I haven't shot off my mouth and," I said, "furthermore, I havent done anything to hurt you."

He said, "Yes, you have."

I said, "Well, what is it?"

So he said—he repeated that I had got him behind the eight ball, and he said, "If you don't watch your step," he said, "I'll have you behind the eight ball."

I said, "Well, I still don't get what you mean." [1563]

Then he brought up—mentioned the fact that I was going rough, that is, my sheets had fallen, and the other corners were going over the top.

I said, "Well, I hit a rough night; what could I do about it? I have had better nights previous." I said, "You will admit that if you really want to."

Q. (By Mr. Mouritsen) Well, what, if anything, did he say in this conversation regarding

(Testimony of Charles Seklemian.)

your checking in, or anything else regarding the manner of your operation?

A. Then he said, "Don't forget," he said, "I am your boss." To start the conversation he said, "You are an independent dealer." He said, "I bring your papers; you buy them off me; you sell them," and the climax of the conversation, he said, "Don't forget," he said, "I am still your boss."

Q. Now, prior to this time, what had been your practice in checking in?

A. Well, I checked in once a night at the end of the night.

Q. Now, as a result of any conversation you had with him, did you change the manner of your checking in?

A. Yes. He instructed me Friday night that he wanted me to——

Q. (Interrupting) Wait a minute. Is this the same conversation?

A. No. This is a later conversation. [1564]

Q. All right. Now, where did this conversation, later conversation, occur?

A. This later conversation occurred on the southwest corner, directly opposite mine.

Q. And who were present?

A. There were two other hustlers present.

Q. Was this on the same night as these other two conversations? A. Correct.

Q. Do you know the names of these other two hustlers who were there?

(Testimony of Charles Seklemian.)

A. One of them I know by first name.

Q. What is his first name?

A. Joe. The second one, I know him by sight but not by name.

Q. And you were present and Velanty was present; is that correct? A. Correct.

Q. Now, will you state what Mr. Velanty said to you and what you said to him?

A. Well, he said—he started the conversation by saying, "Well, you are an independent dealer. I bring you your papers, and you buy them and you sell them." And he says—and he went to the extent of threatening me. [1565]

The Witness: Well, he threatened me by saying that if I was not careful, why, he will hurt me. Then he says, "Beginning tomorrow night," he says, "you pay me once at 7:30"—however, he didn't show up until 8:00 o'clock. This was Saturday night.

Then he said, "You will pay me at 11:00 o'clock," but he showed up at 10:30; and then he showed up again—or 10:15, I believe it was—I made a mistake on the precise time. Then he showed up again at approximately 1:20, and I paid him off once more and completed the night payoff at approximately 2:10, 2:15.

Q. (By Mr. Mouritsen) Since that time, have you been checking in in that manner?

A. Well, you see, nightly my bill is short as compared with Saturday. Nightly I pay him once a night, but Saturday he demanded that you do the

(Testimony of Charles Seklemian.)

large amount of the bill, the impression he conveyed to me he wanted to make it hard for me, that was all. Prior to that time I had been checking into him once a night throughout the week.

Q. Have you ever had a conversation with Velanty—strike that. [1566]

Has he ever laid you off on that corner on any occasion? A. He did.

Q. And about when was that?

A. That was around in September—sometime in September.

Q. What year? A. 1939.

Q. And did he have a conversation with you regarding your layoff?

A. Well, just on a Sunday night prior to the layoff, which occurred on Tuesday night, he informed me that——

Q. (Interrupting) Well, now, where did he inform you? A. On the corner.

Q. Was anyone else present?

A. Not to my recollection.

Q. What did he say to you and what did you say to him?

A. He said to me that he had got a telephone call from a fellow who runs a beer garden off of my corner there stating to him that due to the fact I was wearing a Bridges button, and a C.I.O. Union button, that he was no longer going to buy papers of me, and that he was going to bar me from enter-

(Testimony of Charles Seklemian.)

And Velanty said he was the one that answered the phone personally, and no one else at the office was aware of it outside of himself. And he stated that—"Why don't you hide those buttons?" [1567]

Q. Well, during that conversation did he say anything to you regarding the falling off in the number of papers you had been handling?

A. Well, he claimed that I had been falling off and that he had gotten other beefs concerning me on the corner, and that the office was sending out another hustler to take my place on Tuesday night of that week, and paying him the sum of $4.50 for the night's work.

Q. Well, after that conversation did he take you off the corner on the following Tuesday night?

A. He did.

Q. And did you obtain the corner again from him?

A. Well, I hung around the corner from about midnight until—well, it might have been a little after midnight, but he come around the corner and I spoke to him.

Q. After the conversation did he put you back on the corner?

A. Yes, at the end of the conversation he says, "Report back to work tomorrow night at the usual time."

Mr. Mouritsen: You may inquire.

(Testimony of Charles Seklemian.)

Cross Examination

Q. (By Mr. Hall) Have you been selling Los Angeles Examiners during the past two years?

A. I have.

Q. How many days a week? [1568]

A. Seven.

Q. And at what spot have you been selling?

A. At Sunset and Western in Hollywood.

Q. Did all of these conversations you have referred to occur at one of the corners of that intersection? A. That is right.

Q. Did you say you had been in motion picture work? A. I have.

Q. During the past two years? A. No, sir.

Q. Are you an actor? A. That is right.

Q. You are a motion picture actor?

A. Correct.

Q. When you sell newspapers at that corner, do you make a noise that attracts custom?

A. I did when I first started, but I no longer do.

Q. When did you leave off making a noise?

A. Well, I don't recollect the precise time.

Q. Well, have you been calling your papers during the last year?

A. Well, I holler "Examiner," but I don't holler any headlines, if that is what you are referring to.

Q. But you do holler "Examiner"?

A. I do. [1569]

Q. And you have been in the paper-selling

(Testimony of Charles Seklemian.)

business long enough to know that is the best way to sell papers, is that correct?

A. By hollering the headlines?

Q. By hollering the name "Examiner."

A. Well, I do holler the name "Examiner."

Q. Well, I didn't say you didn't, but I am asking you if that is what you believe to be the best method of disposing of your newspapers.

A. Well, that works at times.

Q. I beg your pardon?

A. That works at times.

Q. Well, you do whatever you think works, don't you, in order to sell your papers

A. That is right.

Q. What editions of the paper do you handle?

A. The entire three that comes out in the evening.

Q. The Peach, the Double C and the Triple C?

A. Correct.

Q. You don't sell the morning edition, do you, the 9:00 a. m. final? A. No, sir.

Q. Is your spot at Sunset and Western a main spot or an off-spot?

A. Well, it may go in the category of a main spot because [1570] there is a hustler that works the traffic one night a week, being Saturday night, who handles the Times and the Examiner. Outside of that, I am there alone as far as the Examiners are concerned.

Q. You mentioned the name of Bill Barrows.

(Testimony of Charles Seklemian.)

Am I correct in understanding that he used to be your district man out there? A. Correct.

Q. When did he stop being your district man out there, approximately?

A. I believe it was in 1937, if I am not mistaken —1936 or 1937. I don't recollect the precise year.

Q. And since that time Nick Velanty has been your district man

A. No. I have had two others prior to Velanty.

Q. When did Velanty commence to be your district man?

A. I believe it was in early 1938, if I am not mistaken. However, I may be mistaken of the time. That is why I won't make a precise statement on that.

Q. Now, have you testified to three conversations last Friday night at which Mr. Velanty was present? A. Correct.

Q. One occurred when he brought around the Double C edition, is that right?

A. Correct. [1571]

Q. The next occurred at 10:20 or 10:30, is that right? A. Correct.

Q. What hour did the third conversation occur?

A. At 1:30, checking time.

Q. Now, the other conversation that you have testified to with Mr. Velanty occurred on a date in September of last year; is that right?

A. Correct.

Q. Who else besides Mr. Velanty was present at that September conversation

(Testimony of Charles Seklemian.)

A. I don't recollect if there were anyone.

Q. Well, there was only one conversation in September with Mr. Velanty, is that right?

A. There were two.

Q. There were two?

A. Sunday evening when he informed me of the forthcoming Tuesday night layoff, and the Tuesday evening conversation concerning resuming where I had left off on Monday evening, of commencing work on Wednesday night.

Q. Well, now, the only period of time that you weren't selling Examiners during that period in September was on Tuesday night, wasn't it?

A. Correct.

Q. That is, you sold on that corner all of Monday night? A. I did. [1572]

Q. Then you were on again on Wednesday night and continued thereafter to sell Examiners on that corner? A. Correct.

Q. Is that right? A. That is right.

Q. When was it that Mr. Velanty on that last occasion told you to report back to work

A. Are you referring to September of 1939?

Q. Yes, September, 1939.

A. The time was approximately midnight. It might have been a little later.

Q. Midnight on Tuesday night?

A. Correct. It might have been a little later. I don't recollect the precise time.

Q. Now, I think you said you had hung around that corner all of Tuesday night?

(Testimony of Charles Seklemian.)

A. I did not. I made my deliveries and I came back approximately at midnight.

Q. And that was Tuesday night?

A. Correct.

Q. I thought Tuesday night was the night you didn't work?

A. That is correct, but I did make my deliveries.

Q. What do you mean by "deliveries"?

A. Well, I have a certain number of deliveries around the neighborhood there, within about two blocks north and south [1573] of the boulevard.

Q. How many customers do you take care of on those deliveries?

A. Well, on the midnights I have approximately twenty-five. On the earlier editions I have approximately fifteen or eighteen.

Q. Well, that would be about forty-three regular customers, is that right? A. Correct.

Q. Has that been going on for quite some time?

A. Quite some time indeed.

Q. It is a condition that now prevails, does it?

A. That is right.

Q. Where are those forty-two or forty-three customers located?

A. Well, I have approximately eight at the Hotel Staten on Harold Way and Western.

Q. Well, they are people that you are well acquainted with, aren't they?

A. They are friends of mine.

Q. And sometimes when they are not able to

(Testimony of Charles Seklemian.)

pay for the paper you extend them credit, do you?

A. I have done it and I do, yes.

Q. In other words, you give them credit for several days running and then collect at the end of that time, is that [1574] correct? A. Yes.

Q. What edition do you deliver to those customers?

A. Well, some demand various ones. I have some that demand the doubles and the rest the midnights.

Q. Do any of them demand the Peach?

A. I have about four or five of them, south of Western Avenue that demand a Peach.

Q. About what time in the evening does the Peach edition reach your corner?

A. Well, that time varies; any time after 6:30, I have had it as late as approximately 7:15.

Q. What time does the Double C reach your corner? A. That also varies.

Q. Between what limits?

A. Well, from approximately 9:00 until 9:30; once in a while, once in a great while a little later than that.

Q. What time does the Triple C reach your corner?

A. Well, that varies to a large margin. I have gotten it as early as 11:40 and as late as 12:30.

Q. Do you handle any other newspapers besides the Los Angeles Examiner?

A. I handle the Times for the Times fellow on

(Testimony of Charles Seklemian.)

the corner as a courtesy to the public as well as to my fellow worker.

Q. You handle the Times laydown on the corner, or is it [1575] a laydown?

A. No, we handle one another's for courtesy to the public as well as to ourselves.

Q. But that is an arrangement between you and the Times newsboy? A. That is correct.

Q. For his convenience and your convenience?

A. That is correct.

Q. Well, now, do you handle any other newspapers besides the Times and the Examiner?

A. Well, during the period that the Herald boy is there I handle his. In case somebody calls for one of his, as well as the Times, so there won't be any confusion, to save time and save a trip for one of the other boys, and to serve the public to the best of my ability.

Q. Well, that is the result of a mutual arrangement between you and the other newsboys?

A. A cooperation, you might call it.

Q. A cooperation? A. Yes.

Q. You don't object to that arrangement, do you?

A. Well, as long as they cooperate with me I don't see why I should object.

Q. As long as they cooperate with you you like that kind of arrangement? [1576]

A. Well, I think that is about the best thing to do. That would be about the most normal thing to do.

(Testimony of Charles Seklemian.)

Q. By the way, that arrangement, that mutual arrangement or mutual cooperation with the Times newsboy and with the Herald newsboy, has been going on for the last two years, hasn't it?

A. To my recollection, yes.

Q. Do you handle any magazines?

A. I do not.

Q. Do you handle any other merchandise besides newspapers? A. No, sir.

Q. What other gainful occupation have you been engaged in during the last two years, other than selling newspapers? A. None other.

Q. No other gainful occupation?

A. No, sir.

Q. In other words, you haven't earned any money outside of the selling of newspapers?

A. No.

Q. Now, the money you earn in the sale of newspapers is the difference between what the papers are sold to you for and what the public pays you for the papers?

A. Yes, outside of a possible tip I might probably get from a customer, but that is something unforeseen.

Q. And gratifying? [1577]

A. I beg your pardon?

Q. And very gratifying?

A. Well, I believe if you were in my position I think you would accept it very gentlemanly.

Q. I feel sure of that. Now, was this beer garden

(Testimony of Charles Seklemian.)

man one of these customers you have described to me? A. Sure, he was.

Q. I beg your pardon? A. He was.

Q. Were these customers that you had furnished with newspapers out of the regular quantity of newspapers that was left with you by Mr. Velanty?

A. You are referring to my steady customers?

Q. Your steady customers.

A. That is correct.

Q. And, as I recall, you had about 42 or 43 of those steady customers, taking all editions together?

A. Well, I can't tell you the definite figures. That would be rather difficult, but approximately.

Q. Well, is that your best approximate recollection? A. Yes.

Q. Is that correct? A. That is correct.

Q. Now, during the last six months, in addition to those steady customers, how many Examiners have you sold on the [1578] average out at that location each night, and I am speaking of daily Examiners?

A. Well, we had a lull period for a time because the corner drug store was closed for approximately three months.

Q. Well, between what limits do you run?

A. Well, I have had a low average, as low as 85, and the most recent maximum, which was last night, outside of one other night which I couldn't consider as an average, has been 106.

Q. That was outside of these regular customers

A. No, sir, including the regular customers.

(Testimony of Charles Seklemian.)

Q. Now, you mentioned a drug store being closed. What does that have to do with the sale of papers?

A. Well, if your corner was dark, I believe that would have some effect, would it not?

Q. It has been shut, has it?

A. It has been but it is reopened.

Q. As a matter of fact, except on these occasions that you have referred to in your testimony, the Los Angeles Examiner, or the Los Angeles Examiner men never complained about your work out there, did they? A. Well, no one——

Q. (Interrupting) Say within the last two years.

A. Well, no one complained to me personally outside of this beer garden operator. [1579]

Q. Do you carry any Los Angeles Times when you serve these regular customers?

A. I take two a night on my own, yes.

Q. Well, you don't have any regular customers for the Times, do you?

A. I believe I have got two, yes.

Q. You give them credit sometimes, do you?

A. I haven't had the necessity for it as yet.

Q. They are pretty good pay?

A. Well, perhaps you might call it that. If there is no necessity for it, I believe you would call it that.

Q. Now, these regular customers, do you charge them five cents for each daily issue of the paper that you leave with them and ten cents for each Sunday? A. That is correct.

(Testimony of Charles Seklemian.)

Q. You don't make them a special rate, do you?

A. I do not, under those circumstances.

Mr. Hall: That is all.

Mr. Cosgrove: May it be stipulated, before we recess, Mr. Examiner, Mr. Mouritsen, that the testimony of the [1580] witness Charles Seklemian has no application to the Los Angeles Times case?

Mr. Mouritsen: It may be so stipulated.

Mr. L. B. Binford: And with respect to the Stockholders Publishing Company, the same stipulation?

Mr. Mouritsen: It may be so stipulated.

Mr. Compton: And with respect to the Los Angeles Evening Herald and Express, the same stipulation?

Mr. Mouritsen: So stipulated.

Trial Examiner Kennedy: I wish to return these cards now. The card reads: "Card of Authorization. I hereby designate and select the Newsboy's L. I. Union No. 75, C. I. O., to represent me for the purposes of collective bargaining with respect to rates of pay, wages, commissions, bonuses, hours of employment, and other conditions of employment." Blank for signature, and blank for address. "I sell papers for:" blank and blank. "Corner" blank and blank. "I understand that the above information is to be used in connection with Labor Board Cases."

I have examined these cards, 221 in number,

dated from the earliest date, May 14, 1940, to the latest, June 22nd, 1940. All of them have under the statement, "I sell papers for," the words "Examiner" or "Los Angeles Examiner."

I will return them to the Board's attorney. [1581]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 2:00 o'clock p. m.)

MIKE BARRETT

called as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and further testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Mr. Barrett, did you handle the Los [1583] Angeles Examiner during the beginning of the year 1939

A. 1939? Yes.

Q. Where did you handle it at that time?

A. The northwest corner of Fifth and Hill.

Q. (By Mr. Mouritsen) Who was your district man at that time? A. Red Butler.

Q. (By Mr. Mouritsen) And during the early part of 1939, Mr. Barrett, did you have what might be termed a quota from your Examiner district man? A. I did.

Q. Will you explain what that was?

(Testimony of Mike Barrett:)

A. Well, the first part of 1939 my quota was 65 at three cents. Over 65 was a cent, all over. They took the quota away from us a little later in 1939, the first part of 1939, and then they told us that we would have a quota back. That was about a month afterwards, so they come back with the quota and raised it to 85, which you couldn't make, and they said, [1584] "Now, we will see if you will make the quota."

Q. Well, who set your quota?

A. Red Butler.

Q. The Examiner district man. That is who I got the orders from.

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Hall) When you say that Mr. Butler fixed your quota, you mean, do you not, that you learned what your quota was from Mr. Butler?

A. I didn't learn nothing. He told me.

Q. After he told you you knew what your quota was for the first time, didn't you?

A. I did.

Q. So that as a matter of fact, you don't know whether Mr. Butler or somebody else fixed the quota, do you?

A. I know what Mr. Butler told me and the district men have been in the habit of telling you what to do.

Q. And all you know is what Mr. Butler told you?

(Testimony of Mike Barrett.)

A. Well, I don't think there is anybody else told me outside of what I said. Butler told me. He seemed to be the boss of the district, so I took his word for it. I don't know where he got his orders.

Q. And did you start selling Examiners in 1939? [1585]

A. No, I sold Examiners since 1929.

Q. Have you been selling them at all times at that location?

A. No. I have sold all over the downtown district and part of the outer district.

Q. Now, the Examiners you sold were the Peach, the Double C and the Triple C?

A. They were that.

Q. And I am speaking now of the last two years.

A. I understood you when you spoke.

Q. And that has been true during the last two years?

A. That has been true ever since I worked for them.

Q. During the last two years what other employment have you had besides the sale of the Examiner?

A. Well, I am a carpenter by trade and sometimes I took an odd job in the daytime; very seldom, though.

Q. You are speaking of the last two years?

A. I am speaking of the last two years.

Q. Anything else besides carpentering?

(Testimony of Mike Barrett.)

A. That is all, in the last two years.

Q. Where do you live?

A. Redondo Beach, 2500 Blossom Lane.

Q. And during the last two years what other newspapers have you sold besides the Examiner?

A. Besides the Examiner? None, only a few Heralds that [1586] would be left if they had any left at night.

Q. Are you known as Mike Barrett?

A. I am.

Q. Didn't you testify previously at this hearing that you sold the Evening Herald and Express?

A. I do now. That is what I testified to. I don't sell the Examiner now.

Q. Oh, yes.

A. I got fired, in other words.

Q. When did you stop selling the Examiner?

A. While I was under the doctor's care, had just been operated on, and I came back——

Q. I asked you when you stopped selling the Examiner.

A. Well, it has been about three months ago.

Q. While you were selling the Los Angeles Examiner, did you sell any magazines?

A. I did.

Q. Which ones?

A. Liberty, Post, Look and Collier's.

Q. Any other magazines or newspapers?

A. That is all.

Q. Did you sell the Racing Form?

(Testimony of Mike Barrett.)

A. I did not.

Q. Those magazines you sold while you were located at the northwest Corner of Fifth and Hill Streets, is that right? [1587]

A. That is right.

Q. Now, when you said they took your quota away from you, what you meant to say was that they simply stopped selling you any papers at one cent?

A. I meant what I said before, that they took the quota away from me, and I paid for my papers regularly 3 cents all the way through.

Q. Yes. A. That is what I said.

Q. In other words, instead of paying 3 cents for a part of the quantity and one cent for the balance of the quantity, you were charged 3 cents for the entire quantity?

A. For the entire quantity, yes.

Q. Isn't that right? A. That is right.

Q. About when was it that they made a quota of 85?

A. I imagine around in March of 1939, some time around there.

Q. That is your best recollection?

A. That is my best recollection.

Q. Some time in March? A. In 1939.

Q. Isn't it true that at that time the sales of all papers jumped?

A. I don't know about that. [1588]

Q. You know as a matter of fact because of

(Testimony of Mike Barrett.)

war news sales of the papers were better on the downtown corners than they had been previously?

A. Well, yes and no.

Q. Well, I will accept your yes answer to that.

A. You will accept my yes and neither. One night they was good and one night they was bad.

Q. What were the averages?

A. The averages run around the regular night about the same as they always were.

Q. What do you mean by regular night?

A. The same as they had been previous to the war.

Q. The same as they were the year before?

A. Yes, on that corner. In fact, the year before they was better, because the two conventions was here.

Q. You have a feeling of hostility towards the Los Angeles Examiner? A. I do not.

Q. Your feelings toward them are entirely friendly?

A. They are mutual, as far as I am concerned.

Q. That is not what I asked you. I asked you if they were entirely friendly.

A. Friendly?

Q. Yes.

A. What do you mean by friendly? There is different mean- [1589] ings to that.

Q. You tell me what you understand by the term friendly.

A. My term is just the same as I have always felt about them.

(Testimony of Mike Barrett.)

Q. Tell me what that is.

A. I have got nothing against them if they ain't got nothing against me.

Q. How long have you been handling magazine sales?

A. Well, since I was on that corner at Fifth and Hill.

Q. When you were selling the Los Angeles Examiner at Fifth and Hill, did you have any regular customers?

A. Yes, I had regular customers. Show me a corner that hasn't.

Q. And in certain cases you would extend credit to certain of those customers?

A. No, sir; I extended credit to nobody. The Examiner required their money every night, so I required mine the same way.

Q. (By Mr. Hall) Well, did you check in more than once a night with the Examiner?

A. No. I checked in once a night. [1590]

Q. How many hours did you sell a day when you were selling the Examiners?

A. How many what?

Q. How many hours were you engaged in the sale of the Examiner each day?

The Witness: I can't give a definite answer, because they came out at different times.

Q. (By Mr. Hall) Well, speaking now of days when you sold the daily Examiner, what, in general and on the average, would be the number of

(Testimony of Mike Barrett.)

hours that you would be engaged in selling the newspaper? [1591]

The Witness: Average, seven hours on a week day, and twelve on a Sunday.

Q. (By Mr. Hall) What has it been since the first of the year?

A. I don't know, because I was sick and in the hospital, and when I come back I was fired.

Q. Well, now, let's see; when were you taken sick?

A. Right after the first of the year.

Q. January?

A. Around the first part of February some place.

Q. Well, you sold Examiners up until the time you fell sick, didn't you? [1592]

The Witness: Yes. I answered that "Yes."

Q. (By Mr. Hall) How long were you sick and not selling any newspapers?

A. Well, about four weeks.

Mr. Hall: That is all.

Redirect Examination

Q. (By Mr. Mouritsen) I believe you stated that you had some regular customers while you were operating on Fifth and Hill.

A. I did.

Q. Now, you became ill in February of this year; is that correct?

A. Yes; either the last of February or the first of March, somewhere around there.

(Testimony of Mike Barrett.)

Q. At the time when you ceased operating on the corner, did you continue to serve those customers?

A. No, I told the man that this guy here sent down to take—whatever his name is, Hansen here, sent down there to take the spot, I made occasion to show him where the deliveries were, [1593] which is two at the market and a couple in Leighton's lunch room and in the drug store, a couple in there, and I showed him where they were.

Q. And did you receive any money from your successor when you turned your regular customers over to him? A. I did not.

Q. Did you receive anything else of value?

A. I did not.

Trial Examiner Kennedy: Anything further?

Q. (By Mr. Mouritsen) During any of the time while you were on the corner did you carry any paper other than the Examiner in your hands or arms? A. No, sir, I did not.

Q. Did you shout any other paper than the Examiner?

A. No, sir, I did not. Just the Examiner and the headlines.

Mr. Mouritsen: Nothing further.

Mr. Hall: That is all.

Trial Examiner Kennedy: You are excused.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony given this afternoon by the witness, Mr. Mike Barrett, has no application to the Los Angeles Times case?

Mr. Mouritsen: That may be so stipulated. [1594]

Mr. Compton: May we have the same stipulation on behalf of the Los Angeles Evening Herald and Express?

Mr. Mouritsen: It may be so stipulated.

Mr. L. B. Binford: And the Stockholders Publishing Company, Inc.?

Mr. Mouritsen: So stipulated.

GILBERT NAVARRO

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Navarro?

A. 146 West 58th Place.

Q. And you are a night district man for the Examiner? A. I am.

Q. You receive a regular pay check from them for that work? [1595] A. I do.

Q. And are Social Security and Unemployment Insurance deductions made from the check?

A. They are.

(Testimony of Gilbert Navarro.)

Q. What editions of the Examiner do you handle?

A. I handle the Peach and Double C and the Midnight.

Q. In what territory do you operate?

A. From Hill Street to Vermont on Pico, and from Pico out to Manchester and Vermont.

Q. Now, will you explain briefly what duties you perform as a district man for the Examiner, and I would suggest that you tell us what you do after you receive your papers from the plant and just take us through a typical day's work that you do.

A. Well, I deliver the papers to the corners where the boys are. I deliver them to the boys.

Q. The first edition that you receive is the Peach edition; is that correct? A. That is right.

Q. You receive that at the Examiner plant?

A. That is right.

Q. And about what time as a general rule do you do that, do you receive that?

A. Well, it all varies. It depends on what time the press runs. [1596]

Q. Between what hours do your generally receive it?

A. Between 6:15 and a quarter of seven.

Q. And then what do you do, distribute those around to the district? A. I do.

Q. And then re-cover with the later editions; is that correct?

(Testimony of Gilbert Navarro.)

A. I go out with the next later edition, yes.

Q. And between what hours do you generally check in at the Examiner?

A. What do you mean, myself?

Q. Yes.

A. Around 2:00 o'clock; 1:30 or 2:00 o'clock.

Q. Do you distribute papers to any other places or people other than to the newsboys?

A. Just to the newsboys.

Q. Do you make your collections each night from the newsboys to whom you have theretofore furnished papers? A. I do.

Q. And during what hours do you make those collections?

A. When they are ready to quit and go home.

Q. And during what hours is that?

A. Well, they vary. Some of them quit at 11:00 o'clock, 12:00 o'clock, 1:00 o'clock, 12:30, 1:30.

Q. Well, did the time that they quit depend upon the time [1597] that you checked them in?

A. When I arrived there, when I would get there.

Q. And they operate up until the time when you check them in; is that right?

A. That is right.

Q. How long have you been in that district?

A. Well, a little over three years.

Q. Do you understand the term "traffic spot"?

A. I do.

(Testimony of Gilbert Navarro.)

Q. Do you have any traffic spots in that district?

A. Yes. Boys in the safety zone.

Q. In other words, a traffic spot is—well, what is a traffic—what do you understand by a "traffic spot"?

A. A traffic spot is anybody who sells a paper to an automobile, I guess is traffic.

Q. And where do these boys operate?

A. Mostly in the safety zone.

Q. And, on occasion, on the white traffic lines?

A. They have none in the white.

Q. In your district they have none?

A. They have none.

Q. You mean they have no traffic lanes or no traffic lines?

A. No. My newsboys that hustle traffic are all in the safety zone.

Q. During the three years that you have been in this [1598] district have you put any boys in on traffic spots? A. What do you mean?

Q. Have you given any boys traffic spots?

A. I don't——

Q. Have you placed any boys on traffic spots?

A. Have I replaced them?

Q. I beg your pardon?

A. What did you mean? I didn't understand you there.

Q. Have you placed any boys on traffic spots during the three years you have been in this district?

(Testimony of Gilbert Navarro.)

The Witness: By "placed them on traffic spots," you mean put them in the safety zone?

Q. (By Mr. Mouritsen) Yes.

A. Certainly. They work in the safety zone and they work on the sidewalk. [1599]

Q. (By Mr. Mouritsen) Do you recall any specific boy that you have placed on a traffic spot within the last three years?

The Witness: Yes.

Q. (By Mr. Mouritsen) And where was the spot? A. At Pico and Vermont.

Q. And when did it occur?

A. I don't remember.

Q. Do you recall the approximate date when that occurred?

A. Yes. The place there I put a newsboy there about—I don't remember the date. A month ago or six weeks ago.

Q. Do you recall the boy's name? [1600]

A. No, I don't know his name.

Q. Is he still working there? A. Yes.

Q. Where did you have a conversation with him? Where did you have your conversation with him respecting the spot?

A. In the Examiner.

Q. Down at the alley? A. Alley.

Q. Was there any one else there?

A. I don't know.

Q. What did you say to him and what did he say to you?

(Testimony of Gilbert Navarro.)

A. Well, when I had my day off I came back, and he said he worked at Pico and Vermont last night and he would like to go out there and sell papers for me tonight—that same night.

Q. Well, your relief man had replaced him on the spot in the first place, is that correct?

A. That is right.

Q. Do you understand the term "main spot"?

A. Yes.

Q. Do you have any main spots in your district?

A. I have.

Q. How many? A. About two.

Q. And what do you understand by the term "main spot"? [1601]

A. Well, he—he has got the best corner of the lot. On the four corners he has got the best corner.

Q. That would be the main spot. The other spots are known as what? A. Off spots.

Q. And does each main spot newsboy count out papers to the off spot boys?

A. He gives them to them, yes, sir.

Q. In other words, you leave the papers for the entire corner with the main spot boys; is that correct? A. That is right.

Q. And what has the main spot boy to do with the papers that you leave with him?

A. Well, he distributes to the off spots, and will keep some for himself.

Q. Do you pay your main spot boys anything for doing that?

(Testimony of Gilbert Navarro.)

A. Well, I give them a few extra nickels and give them a little extra money.

Q. Where are those main spots?

A. Pico and Vermont.

Q. Who is the main spot boy on Pico and Vermont? A. His name is Wally.

Q. Is that all you know of him?

A. That is all I know.

Q. Where are the other main spots? [1602]

A. Washington and Vermont.

Q. Who is the main spot boy there?

A. George.

Q. George what? A. I don't know.

Q. Approximately how many newsboys are there in your district selling the Examiner?

A. Well, 20, 22.

Q. Do you have any school boys among that group? A. No, I have not.

Q. Are they older, more mature men?

A. They are all kinds of elderly men.

Q. Do they all work more than four hours a day? A. Sure.

Q. Do they all work five or more hours a day?

A. They work over five; they work six; some work seven.

Q. During the three years that you have been in that district have you put any different newsboys on those spots? A. I have.

Q. Approximately how many?

A. I wouldn't know.

(Testimony of Gilbert Navarro.)

Q. Do you have any idea?

A. I have no idea how many newsboys I have changed or that have left the corners there. I can't recollect.

Q. Well, during the past year do you have any idea how many [1603] changes have taken place?

A. Well, about three or four.

Q. And the year before?

A. I don't remember.

Q. Well, was it any more than three or four?

A. I can't tell you. I don't remember.

Q. You have no recollection at all as to the number? A. I can't remember that.

Q. Was it more than one?

A. It probably was more than one.

Q. Now, was it less than 20?

A. I don't know.

Q. Was it less than 100?

A. Well, it probably is less than 100.

Q. Is there any way you can fix the number more definitely between one and 100?

A. I can't remember that.

Q. During the three years that you have been on the corner, have you been requested by the office from time to time to turn in a list of the places where you leave papers and the approximate number you leave there, for your district?

A. I have.

Q. And has that continued up to the present time?

(Testimony of Gilbert Navarro.)

A. I don't remember the last one I turned in. I don't know, it has been quite a while ago. [1604]

Q. Well, it has been less than a year, hasn't it, Mr. Navarro? A. It has.

Q. And is there any way you can fix how much less than a year it has been?

A. Well, it has probably been three or four months ago, or five months ago.

Q. And how do you receive the copies of the Sunday edition of the paper?

A. Well, what do you mean?

Q. Do you understand the use of the term "stuffing"? A. I do.

Q. Will you tell us what that term means, what you understand by it?

A. Well, it means that the papers come in sections instead of together.

Q. And do you receive the Sunday copy of the paper, your Sunday copies of the paper, in sections so that you have to stuff them?

A. No, I don't have to stuff them.

Q. Do you receive them in sections?

A. I receive them in sections, two editions.

Q. And the operation of stuffing is merely placing one section within the other, isn't that right?

A. That is correct. [1605]

Q. Well, if you receive them in sections, how are they stuffed?

A. The comic sheet is on the inside.

(Testimony of Gilbert Navarro.)

Q. Do you receive them in sections?

A. Yes.

Q. Now, how are your papers that you receive stuffed?

A. The ones that I receive? I don't know how they are stuffed. The magazine and color section in one section, and the news section in another.

Q. You turn them over to the newsboys in sections; is that right? A. That is right.

Q. And what do you tell the newsboys, if anything, regarding the stuffing of those papers?

A. I don't tell them anything.

Q. You don't recall having told any newsboy anything about stuffing the papers?

A. No. I guess they have been doing it for years and years. They know what to do with them, I guess.

Q. Even the two or three new ones you have put on in the last year——

A. I never told nobody to stuff a paper.

Q. You don't recall that? A. No, sir.

[1606]

WILLIAM JACKSON

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Are you a night district man for the Examiner? A. Yes, I am.

(Testimony of William Jackson.)

Q. (By Mr. Mouritsen) Now, how long have you held that position?

A. Well, about three years.

Q. And what are the boundaries of your district?

A. Well, from 11th Street to Florence, and from Figueroa to Main.

Q. During the period that you have held that district, Mr. [1607] Jackson, have you put any newsboys on any of the spots in that district?

A. No, I don't put any newsboys on any corner. If I have a spot open, if a fellow asks me if I have anything open, I will tell him where it is, and I sell the newspapers to him and he goes out there himself.

Q. And do you recall any specific conversation that you have had with a newsboy prior to the time when he has gone out to his spot?

A. Not necessarily. I know most every newsboy that comes in, yes.

Q. Well, you don't recall any specific conversation with any of the boys you——

A. Before I send them out or before I tell them where to go?

Q. Yes. A. No, sir.

Q. Do you recall having put a man named Latham on one of your spots?

A. I don't know anyone by that name, sir.

Q. Mr. Latham, will you stand up? Do you recall having put this man on one of your spots?

(Testimony of William Jackson.)

A. I don't remember.

Q. You have no recollection of that?

A. Unless it has been quite a long while ago. I remember the face, but I don't remember ever putting him on any spot [1608] or telling him to go to any spot.

Q. You have absolutely no recollection of any conversation with that man?

A. I have not, no, sir.

Q. (By Mr. Mouritsen) Mr. Jackson, I will ask you if you recall a conversation with Mr. Latham in the first week in May, 1939, at the Examiner alley at which you and he were present.

A. I don't remember having any conversation in connection with Mr. Latham; and I don't remember —excepting I remember his face.

Q. And if at that time, namely, about the first week of May, [1609] 1939, you recall having a further conversation with him out at the corner of Washington and Figueroa, at a vegetable market, at which you and he alone were present?

A. Washington and Figueroa? I beg your pardon, Mister, but there is no vegetable market at Washington and Figueroa. There is no vegetable market at Washington and Figueroa.

Q. Florence and Figueroa?

A. There is one at Florence and Figueroa, but I don't remember the man at any time. I don't remember having any conversation with him, no.

Q. And do you recall at that time and place—

(Testimony of William Jackson.)

Mr. Hall: This is the last one, is it?

Mr. Mouritsen: Yes.

Q. (By Mr. Mouritsen) That is, at this vegetable market at Florence and Figueroa, that you told him to make all the places around the market and to work the white lines?

A. I don't remember ever talking to the man about any corner at all.

Q. You have no recollection of it?

A. I have no recollection of it, no, sir.

Q. And then if several days after this first conversation you did not have a further conversation with him in the Examiner alley, you and he alone being present? [1610]

The Witness: I don't recall at any time.

Q. (By Mr. Mouritsen) You do not recall that?

A. I don't recall.

Q. And if at that time you did not say to him in substance as follows: That "I am going to put you on the corner of Washington and Figueroa, the main spot, and I want you to get out and hustle on the white lines and beat the Times boy"?

A. I don't recall any conversation with the man at all. I have answered that five or six times now.

Q. And if on the corner of Washington and Figueroa several days after the second conversation you did not have a further conversation with him, you and he being alone, in which you said to him in substance, as follows: That you said, "I am going to put an off spot boy on the other corner," and that

(Testimony of William Jackson.)

Mr. Latham said, in substance or effect, that he did not want you to place another boy on the corner inasmuch as that would deprive him of sales, and if you did not at that time state in substance: "It's not me; it's the company"; and if you did not further at that time tell him that he was to supply the papers to the off spot boy; that he stated that he did not desire to because it would cut down his sales; if you at that time did not tell him that the off spot boy was to [1611]— work the safety zone and that he, Latham, was to see that the boys worked in the safety zone? Do you recall having such a conversation?

A. Him or no one else. I never tell them anything like that.

Q. The question is, do you recall having such a conversation? A. No, sir. [1612]

DARRAL COLE

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Cole?

A. 628 North Orange Street, Glendale.

Q. What is your business or occupation?

A. Circulation representative for the Los Angeles Examiner.

(Testimony of Darral Cole.)

Q. How long have you held that position?

A. Approximately seven years.

Trial Examiner Kennedy: For the Examiner, was that?

The Witness: That is right, sir.

Trial Examiner Kennedy: L. A. Examiner.

Q. (By Mr. Mouritsen) And in that position will you please state what your duties are?

A. Well, I have worked at a number of different jobs. My first job there, I was in charge of junior sales for country and suburban circulation.

Q. Well, confining your attention to the years 1938 and '9, will you state what your duties were?

A. One of my duties was a checker on street sales and A. M. independents in the morning. Another was verification department. [1613]

Q. Of what did your work as a checker in the street sales consist? What did you do?

A. Well, we traveled—I traveled the district at night to see that the district was represented by our newspapers, that the sales outlet on the district were covered as they should be.

Q. Did you make reports covering your investigation and what you found?

A. Yes, sir.

Q. To whom did you make those reports?

A. Mr. Arthur Hampson.

Q. What points would you check on?

A. Well, if I thought there was a corner or spot that should be represented by some kind of representation there, I put it in the report.

(Testimony of Darral Cole.)

Q. What else did you do?

A. Just rode the district and saw that the corners that had hustlers, that hustlers were in the corners, and on the job.

Q. What do you mean by "seeing that they were on the job"?

A. Just riding around and observing.

Q. Well, you stated that you first saw they were present and then that they were on the job. What did your observation cover besides the fact that they were present?

A. Well, by way of determining that, I would see that they were selling the Examiner. [1614]

Q. And did you from time to time during that period find that the boys were not selling the Examiner?

A. If I interpret your question right—I don't know just exactly what you mean.

Q. Well, you have testified, Mr. Cole, that your duties were to ride the districts—I presume that is districts of the night district men, is that correct?

A. That is right.

Q. To see that the newsboys were present on the corners and to see that they were on the job and to see that they were selling the Examiner. Now, did you always find that the newsboys were present on the corners?

A. No, I didn't always find that condition to exist.

Q. When you found that condition not to exist, what did you do as part of your duties?

(Testimony of Darral Cole.)

A. Well, it was part of my duty to find out how long they were off of the corner.

Q. And then what did you do when you found that out?

A. Just make a report of it and turn it in.

Q. To whom? A. Mr. Hampson.

Q. Now, part of your duties was to see that they were on the job. Did you always find that the newsboys were on the job during that period while you were— A. In the majority of cases. [1615]

Q. In the cases where you did not find that they were on the job, what did you do in the line of your duty?

A. I just observed the length of time that they were off of the corner from the time I arrived there until the hustler was back on the spot again.

Q. Then what did you do?

A. Made a report of it and turned it in to my superior.

Q. And in the event—strike that.

During that period did you find that the newsboys were always selling Examiners in the various districts?

A. The Examiner newsboys I found were selling the Examiner.

Q. You found that in all cases?

A. Well, there was some cases that newsboys handle both periodicals at night, the newspapers, the Times and Examiner.

Q. And what did you do with reference to news-

(Testimony of Darral Cole.)

boys handling both papers in the line of your duty?

A. I did nothing about it.

Q. There are certain newsboys who sell only the Examiner; isn't that correct?

A. That is correct.

Q. And did you always find that they were selling the Examiner?

A. In the majority of the cases, although I believe there is an arrangement between hustlers on the corners where one will handle the other's newspapers as an accommodation. [1616]

Q. I don't want what you believe. I move to strike that. I would like to know if you always found that the newsboys were selling the Examiner.

A. To the best of my knowledge, yes.

Q. Well, then, Mr. Cole, is it your testimony that your duties involved, and the only reports that you ever made concerning newsboys' operations were regarding the times that they were off the corners?

A. As far as right down to the newsboy operation, yes, and then any spots that I thought there should be representation.

Q. And during that period, that is, in 1938 and 1939, you made no other reports regarding the work or manner of work of the newsboys in the districts you covered?

A. To the best of my recollection, no.

Q. Now, with reference to the morning men, morning district men, what did your duties entail during that period, that is 1938 and 1939?

(Testimony of Darral Cole.)

A. Well, the morning men, termed A. M. independents, handle the newsstands and drug stores, and as the checker's job in the field, we were supposed to check the stores and the laydown racks, otherwise known as coin racks, to see that they had papers in them up until 12:00 o'clock noon.

Q. And the morning men also supply certain newsboys, do they not? [1617]

A. To the best of my recollection, they do.

Q. And with reference to the operations of the newsboys who work in the morning, what did your duties entail?

A. Well, I was never very interested in the newsboys in the morning. As far as the A. M. independent check-up was concerned, my duties were mainly to see that the stores and stands had papers.

Q. And you recall no instance of ever having reported regarding the manner of display of any of those newsboys in the morning?

A. I don't recall. It is a possibility.

Q. Did you check also in the district that is covered or handled by Bill Seebolt?

A. I have checked the district covered by Bill Seebolt but not on his district. I was more concerned with the newsstands.

Q. Well, you yourself have not covered the Bill Seebolt work in your check, is that correct?

A. I have not.

Q. How many other checkers are there?

A. There is one or two besides myself.

(Testimony of Darral Cole.)

Q. What are their names?

A. Peters—Mr. Peters and Mr. Grimm.

Q. And do they do the same type of work that you do? A. I believe they do. [1618]

Mr. Mouritsen: You may inquire.

Cross Examination

Q. (By Mr. Hall) Did these checkups that you referred to occur at daily intervals or at longer intervals?

A. I could give two or three answers to that.

Q. Explain the method, will you, Mr. Cole?

A. On a checkup—you are referring to the night checkup?

Q. Well, let's take the night checkup first.

A. On the night checkup as a rule we cover—just ride a complete district to see how the display was, if the hustlers were on the job.

Q. Well, would you do that once a month or twice a month or how often?

A. Well, sometimes, maybe it would run, maybe two weeks daily.

Q. Then you would refrain from making a check for a certain period?

A. Yes. Might go over to the morning and check up on the A. M. independents.

Q. As a matter of fact, how long is it since you have made a night checkup?

A. I would say approximately two or three months?

Q. During the course of the night checkup it

(Testimony of Darral Cole.)

was your duty, was it not, to inspect the territory with a view to finding places, if there were such, where a newsboy vendor of papers [1619] might be profitably located? A. That is right.

Q. During the course of your night check ups did you talk to Los Angeles Examiner newsboys?

A. I don't recall.

Q. Did you ever during the course of your night checkups or your day checkups ever give any orders or instructions to any newsboys? A. Never.

Q. Well, then, as I understand it, in both the course of the night checkups and the day checkups you would simply observe; is that right?

A. That is right.

Mr. Hall: That is all.

Trial Examiner Kennedy: Is there anything further of this witness?

(No response)

You are excused.

Mr. Cosgrove: May it be stipulated, Mr. Mouritsen, that the testimony of the witnesses Gilbert Navarro and William Jackson and Darral Cole, of any of them, have no application to the Los Angeles Times case?

Mr. Mouritsen: That may be so stipulated.

[1620]

Mr. Compton: May the same stipulation be made on behalf of the Los Angeles Evening Herald and Express?

Mr. Mouritsen: It may be so stipulated.

Mr. L. B. Binford: And the same stipulation with respect to the Stockholders Publishing Company?

Mr. Mouritsen: Yes, so stipulated.

ERNIE JAMES LATHAM,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Mouritsen) Where do you live, Mr. Latham? A. 579½ North Boylston.

Q. That is in the city of Los Angeles?

A. Yes.

Q. Have you ever sold the Los Angeles Examiner? A. I have.

Q. When did you first start to sell the Los Angeles Examiner?

A. About the first week of May, 1938.

Q. And where did you start to sell?

A. Eighth and Main.

Q. Did you obtain that spot from anyone? [1621]

A. Yes, I did.

Q. From whom?

A. Abie Peters, I believe they call him.

Q. And who was he?

A. He was the district man for the Examiner, the downtown.

Q. Did you have a conversation with him prior to the time when you went out to the spot?

(Testimony of Ernie James Latham.)

A. Yes, I did.

Q. Where did that conversation take place?

A. In the alley at the Examiner, where the district men meet the newsboys.

A. And who was present?

A. Well, I don't just recall. There were several fellows around, but there was no one but Abie and I had the conversation.

Q. Will you state what Mr. Peters said to you at that time?

Mr. Hall: Would you place the time of the conversation, counsel?

The Witness: In the first week of May, 1938.

Q. (By Mr. Mouritsen) Will you state what you said to Peters and what Peters said to you?

A. I asked him did he have a spot for me. He said, "Yes." Told me to go to Eighth and Main.

Q. Did you go to Eighth and Main?

A. I did. [1622]

Q. Did you have a further conversation with him at that place? A. Yes, I did.

Q. How long after this first conversation did this second one take place?

A. When he brought the next edition, the Double C.

Q. And where did it take place?

A. On the corner of Eighth and Main.

Q. Was anyone else present other than you and Mr. Peters? A. No.

Q. Will you state what Mr. Peters said to you and what you said to him?

(Testimony of Ernie James Latham.)

A. I told him, I said, "I can't sell enough to eat on here."

He said, "Stay with it and I'll guarantee you a dollar a night."

In other words, if I sold 20 papers I kept the dollar.

Q. And was that about all the conversation that took place at that time?

A. Well, no; he told me to come to, I believe it is the cafe there—I believe it is the Belmont, if I am not mistaken, at Fifth and Main, to check in to him at 12:30.

Q. And anything else? Do you recall anything further that he said at that time?

A. No, I do not.

Q. To refresh your recollection, did he say anything [1623] regarding the Times at that time?

A. Yes; he told me not to handle it.

Q. And after that time did you go and check in to that place that he had designated?

A. I did.

Q. After that time did he ever have to make up the—did he have to give you money so that you received a dollar a night on that spot?

A. Yes. Once.

Q. How long did you remain on that spot?

A. Oh, I should say probably five or six, maybe seven weeks.

Q. And then did you operate upon another spot?

(Testimony of Ernie James Latham.)

A. No. He taken me off that spot and put me at the bus station at Sixth and Main.

Q. Did you have a conversation with him prior to that time when he put you on this spot at Sixth and Main? A. Yes.

Q. Where did that conversation take place?

A. That was on the corner there when he—at night when he came to work. "Why," he said, "I am going to give this spot back to the lady that has had it. You will have to come up there if you want one."

So he put me in the car and we rode around to see if he could find another spot, and he couldn't find one, and he [1624] says, "That's the only one I have got, here at the bus station."

And I hollered about it and I didn't want to take a spot I wouldn't make even a dollar, and knew that I wouldn't sell five papers there, not even on a corner, and he said, "Go ahead and I'll give you 15 papers and 50 cents to stay there."

Q. And how long did you stay on the spot at Sixth and Main?

A. About the third night I quit.

Q. Now, after that time did you ever start to handle the Examiner again? A. Yes, I did.

Q. About when was that?

A. Well, about Thanksgiving of 1938.

Q. What spot did you receive then?

A. Florence and Figueroa.

Q. Did you see anyone prior to the time when you received that spot? A. Yes, I did.

(Testimony of Ernie James Latham.)

Q. Whom did you see then?

A. Mr. Jackson, district man for that district.

Q. And did you have a conversation with him prior to the time that you went out to the spot?

A. I did.

Q. Where did that conversation take place?

[1625]

A. In the alley down at the Examiner.

Q. And what was the approximate date of that conversation?

A. Well, it was along about Thanksgiving. I don't remember exactly the date. I can't tell you.

Q. Was anyone else present other than you and Mr. Jackson?

A. Well, there were several district men and newsboys around, but I don't recall any of them standing there listening at our conversation.

Q. What did you say to Mr. Jackson and what did he say to you?

The Witness: I asked him did he have a spot for me and he said yes.

Q. (By Mr. Mouritsen) And what else was said at that time?

A. Well, at that time there wasn't anything until we got to the corner.

Q. Did you have a further conversation with him there? A. Yes, I did.

Q. And what was the corner where you had the conversation, [1626] the second conversation with him? A. Florence and Figueroa.

(Testimony of Ernie James Latham.)

Q. Now, will you state what Mr. Jackson said to you there and what you said to Mr. Jackson?

A. He told me to work the market around there and watch the corner, and also work the white line.

Q. I see. Do you recall anything further that was said at that time?

A. Yes; he said he would have a better spot for me.

Q. Was that about all the conversation that took place at that time?

A. At that time, yes, that is the first night.

Q. And how long did you work on that spot?

A. Oh, I would say approximately a couple of weeks maybe, or maybe not that long. I don't recall just exactly, maybe three weeks. I don't recall exactly.

Q. And then did you receive another spot?

A. I did.

Q. And from whom did you receive this other spot? A. Mr. Jackson.

Q. Where was the other spot?

A. Florence and Broadway.

Q. And prior to the time when you worked on Florence and Broadway, did you have a conversation with Mr. Jackson? [1627]

A. Yes. He still said the guy was off that night at Florence and Broadway.

The Witness: He told me I could work that spot that night, that the man was off, and that he would give me another one the next night, a better spot.

(Testimony of Ernie James Latham.)

Q. (By Mr. Mouritsen) And how long did you work the Broadway and Florence?

A. One night.

Q. Then did he move you to another spot?

A. He did.

Q. And what spot was that?

A. Washington and Figueroa.

Q. And prior to the time when you started working at the spot on Washington and Figueroa, did you have a conversation with Mr. Jackson?

A. Yes, that night.

Q. Where did this conversation take place?

A. On the corner of—as I checked in, at Florence and Broadway.

Q. Was anyone else there? [1628]

A. Well, the Times boy was there.

Q. Do you know his name? A. No, I don't.

Q. Will you state what Mr. Jackson said to you and what you said to Mr. Jackson on that occasion?

A. Well, I asked him was he sure he had the other spot, and he said, "Yes," to "go to Washington and Figueroa tomorrow."

Q. Did he say anything regarding the type of spot it was? A. A main spot.

Q. Do you recall anything further he said regarding this spot at Washington and Figueroa?

A. Well, he said I should build it up to a good corner; if I kept myself neat and clean, I should be able to build it up to a good corner.

Q. Do you recall anything further that he said at that time?

(Testimony of Ernie James Latham.)

A: Not that night, but I met him in the alley the next morning or the next afternoon where we had another conversation.

Q. And who else was present, if anyone, at this conversation the next afternoon?

A. Well, the same, newsboys and district men, but I don't recall of any of them listening to our conversation.

Q. What did you say to Mr. Jackson and what did he say to you? [1629]

The Witness: I told him I was ready for that main spot and he said O. K. He told me to walk down to Grand and Washington and I would pick up my papers there, and then I would leave three papers for an old man there, or five papers, I believe it was, I left with an old man there, and then I would go to my corner at Washington and Figueroa, and from there on he would bring the papers himself.

Q. (By Mr. Mouritsen) Did he say anything at that conversa- [1630] tion regarding the place where you were to work?

A. Yes, he did. He said for me to watch the Times guy and to be on my toes. If I didn't, he would run ahead of me and sell papers.

Q. Well, do you recall anything further that he said in that conversation?

A. Yes, that I should work the white lines.

Q. Anything else? Do you recall anything else he said at that time?

(Testimony of Ernie James Latham.)

A. Not at that time, no, not in that present conversation.

Q. Well, after that conversation did you have any further conversation with him regarding your operations at Washington and Figueroa?

A. I did.

Q. How long after the—

A. Well, every night almost we would have some kind of a conversation, because I would ride in with him.

Q. Well, when was the next conversation that you can recall regarding your operations on the corner?

A. Well, about three or four nights after that, why, I was a little short on the Peaches, and I had sold out all but one and I was sitting on the fire plug waiting for him, and he wanted to know what I was sitting there for and why I wasn't up working.

Q. Who else was present at that time? [1631]

A. The other Times boy was standing there.

Q. You say the other Times boy?

A. The Times boy, the other newsboy that sells the Times.

Q. And anyone else?

A. Well, there were two customers standing there waiting for a Double C at this time.

Q. What did Mr. Jackson say to you and what did you say to Mr. Jackson?

A. Well, he said—he wanted to know why I was sitting there and why I wasn't up working, that the

(Testimony of Ernie James Latham.)

office would be on him if they catch me sitting down.

I said, "Well, I only have one and the customers don't want it; they want the Double C and they are waiting for it so I can't shove it down his throat."

Q. Is that all the conversation that took place at that time?

A. Well, yes, at the present time, only he told me to go ahead and get out there and sell those papers to them.

Q. Did you ever have a conversation with Mr. Jackson regarding your lunch hour or the time that you were to take off for lunch? A. Yes, sir.

Q. Or for your meal?

A. He came up once and I was in the drug store having a sandwich. And he was bringing a later edition and I was in [1632] there having a sandwich and a cup of coffee.

Q. What occurred then?

A. Well, he blew his horn and naturally I jumped around to get my papers and he wanted to know what I was doing and I told him I was eating.

Q. Wait a minute. About how long after you started on Washington and Figueroa did this conversation take place?

A. Oh, about a week or so, or a couple of weeks.

Q. And at the time when it took place was anyone else present other than you and Mr. Jackson?

A. This conversation of my eating?

Q. About your eating.

A. Yes, the Times newsboy was there.

(Testimony of Ernie James Latham.)

Q. Now, will you state what Mr. Jackson said to you and what you said to him?

A. Well, he said I should get a sandwich and stay outside on the corner.

Q. Do you recall anything further that was said at that time?

A. Yes. That same evening he told me he was going to put the off spot fellow on my corner.

Q. When did that conversation occur?

A. Yes, that same evening.

Q. And where did it occur?

A. Right there at Washington and Figueroa. [1633]

Q. Was anyone else present at that time?

A. Yes. I think the Times boy was still standing there. I am not positive.

Q. (By Mr. Mouritsen) What did Mr. Jackson say to you and what did you say to Jackson regarding this off spot boy?

A. I asked him not to put him on because it takes more of my sales; that people instead of coming across the street would stop there and get them from him instead of coming across to me.

Q. What did he say about it then?

A. He said, "I can't—it's not me; it's the company that wants the boy there and I have to put him there."

Q. And did he put the boy there?

A. Yes, he did.

Q. At that time did he say anything to you regarding giving this off spot boy papers?

(Testimony of Ernie James Latham.)

A. Yes, I was to give him papers—I was to collect—I was responsible. If he takes part of it, well, it's my hard luck; I will have to pay, * * * [1634]

Q. (By Mr. Mouritsen) At that conversation did Mr. Jackson say anything to you regarding the place where the off spot boy was to work?

A. Yes.

Q. What did he say regarding that?

A. In the safety zone. There was a safety zone there for the street car on his corner, on the off spot corner, and there wasn't over on mine, only white lines; no safety zone.

Q. How long did you continue to operate on that corner?

A. Well, I should say up until—I just don't recall. It was after the 4th of July.

Q. Of what year? A. 1939.

Q. During that period did Mr. Jackson ever give you anything other than the Examiner to sell?

A. Yes, he did.

Q. And what was that?

A. Smokey Moore's Green Sheet. [1635]

Trial Examiner Kennedy: How long did you sell it?

The Witness: From a few weeks I was on the corner until he fired me.

Trial Examiner Kennedy: Until he what?

The Witness: Until he fired me.

Trial Examiner Kennedy: How long a period of time was that?

(Testimony of Ernie James Latham.)

The Witness: Oh, maybe a couple of months; three months, something like that.

Trial Examiner Kennedy: When did you say he fired you?

The Witness: Well, it was some time in July, after the 4th.

Trial Examiner Kennedy: Last year?

The Witness: 1939. [1637]

The Witness: I said it looks the same. I can't remember exactly. I know it has "Smokey Moore's Little Green Sheet."

Trial Examiner Kennedy: Looked something like that?

The Witness: Yes, but it had some writing on there, "Little Green Sheet." I don't remember seeing the Horse Sense that was on there, because I don't remember everything. I didn't read them too close.

Q. (By Mr. Mouritsen) Now, when did Mr. Jackson first start to supply you with the Green Sheet?

A. Well, when the races started.

Q. Where was that? The races where? At Santa Anita or——

A. Yes, races at Santa Anita, yes, is where I got it. Sometimes along maybe when the races has been going for a while, because I know—I don't know what time the races started—I didn't keep track of the races, because I don't know what time they started, but I know the races were going on when I got the Green Sheet.

(Testimony of Ernie James Latham.)

Q. (By Mr. Mouritsen) Well, approximately how long had you been on the spot at Washington and Figueroa before Mr. Jackson started to supply you with the Green Sheet?

A. Well, I can't recall. I don't remember the exact date [1638] I had been there a while, but just when I can't tell you.

Q. Well, can you fix the date approximately? Had you been there a week or two weeks, or—

A. No, it is after the first of the year.

Q. Well, can you fix approximately how long it was after the first of the year—wait a minute. The first of the year of what year?

A. 1939, after the first; it was along maybe later in the—oh, maybe in March or April, I don't know. It wasn't in April because Santa Anita was not running then; it was Hollywood running then.

Q. Can you fix the date more definitely than between March and—

A. I should say some time in January, maybe. January or—yes, maybe it was January some time.

Q. Did you have a conversation with him when he first supplied you with this?

A. Yes; * * * [1639]

Q. (By Mr. Mouritsen) Now, Mr. Latham, will you please state what Mr. Jackson said to you and what you said to Mr. Jackson at the time when he first gave you the Green Sheets?

Mr. Hall: That was placed in July of 1939, wasn't it? Or was it? Will you place the time so the record will be clear about it?

(Testimony of Ernie James Latham.)

Mr. Mouritsen: I believe the time has already been placed as the beginning of 1939.

Mr. Hall: All right.

Q. (By Mr. Mouritsen) Will you so state, Mr. Latham?

A. I don't remember exactly. It is somewhere maybe in March, April or May, I don't know; maybe in January, too. I don't remember. I don't know for sure. I have forgotten. It has been some time and I don't remember so well on that, just what time it was he gave them to me.

Q. Well, will you state what he said to you when he first gave them to you?

A. Yes. He says, "They cost 19 cents, you make 6 cents on each one." I sell for 25 and buy from him for 19.

Q. During the time while you were operating on Washington and Figueroa, what time did you report on week days?

A. Well, maybe I have to be over there about 5:30 at Grand and Figueroa, or Grand and Washington. That is where I pick the papers up then. I go there and pick the papers up about 5:30. From then on—maybe they are later getting there. [1640] Maybe it was almost 6:00 o'clock sometimes before they would get there.

Q. It was your practice to pick up the first edition at that place? A. Yes.

Q. Then you would carry them to your corner?

(Testimony of Ernie James Latham.)

A. Yes; and from then on he would service me at the corner.

Q. And what time did you report on Saturdays?

A. Well, I have to report about two o'clock at the alley on Saturdays because he wants to be sure I was there.

Q. Well, did you ever have a conversation with him regarding the time you were to report on Saturdays?

A. Yes, the first Friday night of the week I had worked at Washington and Figueroa, and he said, "You be in the alley in the morning."

Q. Where did this conversation take place?

A. As we were going in. I ride in with him to the alley every night to check up.

Q. Was there anyone else present?

A. There was a fellow present but I have forgotten his name, and I don't see him no more selling papers anywhere. I haven't seen him in some time.

Q. Will you state what Mr. Jackson said to you and what you said to Mr. Jackson?

A. He said for me to be down there about 2:00 or 2:30 in [1641] the alley there on Saturday afternoon because he wanted to be sure I would be there, and I told him all right, I would be there, and I was.

Q. Did you report the next day? A. I did.

Q. And did you have a conversation with Mr. Jackson at that time?

A. At the time I reported there?

(Testimony of Ernie James Latham.)

Q. Yes. A. Yes. I have to take—

Q. Well, was anyone else there?

A. Well, whoever the off-spot fellow that was there, he told me to check this fellow in he had on the off-spot. That is before he put a steady off-spot, that one for Saturday. He had another off-spot fellow. Then he put this fellow on and I have to stuff the sheets and check him out, and then if he takes a powder, I have to pay it.

Q. Well, on that particular Saturday how did you receive the papers that you were to sell?

A. Well, they brought them out in a truck and one bundle maybe would be the comic sheets and another bundle would be the news and another would be the sports and stuff, and then you have to make all of them together.

Q. Well, did Mr. Jackson say anything to you about putting them all together? [1642]

A. Yes.

Q. What did he say?

A. He said I have to stuff my sheets. I should stuff them all and give the other off-spot fellow his, five at a time I should give him.

Q. Did you stuff not only the papers you got but the ones the off-spot boy received?

A. Yes, I stuffed them all; for the offspot boy, too.

Q. Did Mr. Jackson pay you anything for that work? A. No.

Q. Now, prior to the time when you ceased to

(Testimony of Ernie James Latham.)

work on that corner did you have a conversation with Mr. Jackson regarding your leaving?

A. I did.

Q. Where did that conversation take place?

A. That was in the alley on Saturday afternoon when I reported for work.

Q. How can you fix the approximate date?

A. Well, it was in July. I don't know the date.

Q. July of what year? A. 1939.

Q. Who were present?

A. Well, this—there were several newsboys and the district men, but I don't recall any of them listening in.

Q. State what Mr. Jackson said to you and what you said to [1643] Mr. Jackson.

A. Well, he begin to laugh a little and he says to me, "Well, I am not going to use you. I hear you are going to take a powder on me so I couldn't use you."

I asked him who told him, and he said, "Oh, never mind. I know lots of fellows tell me things you don't know nothing about."

I asked him why he didn't tell me in time where I could get another spot because the trucks were leaving, and he didn't say anything.

Q. And after that conversation you no longer worked on that spot? A. That is right.

Mr. Mouritsen: You may inquire.

(Testimony of Ernie James Latham.)

Cross Examination

Q. (By Mr. Hall) Since this occasion you have last mentioned have you sold Los Angeles Examiners? A. No, I have not.

Q. Well, now, referring to Board's Exhibit No. 20, which is the Green Sheet, I understood you to say that Mr. Jackson first gave you those Green Sheets for sale some time either in March or April or May or January, 1939; is that right?

A. I said I didn't remember at the time he gave them. It may have been along there.

Q. It may what? [1644]

A. It may have been along like that, some of those months, I don't remember just what time I got them.

Q. Well, how was it that you remembered a few minutes earlier in the questions put to you by the Trial Examiner that it was a few weeks prior to the date in July when it was given to you for the first time? A. I did not say that.

A. I testified from the time he brought the sheets that I started to handle them. I still say that.

Q. What have you been doing since July, 1939?

A. Selling papers.

Q. What papers?

A. Well, I sold the Hollywood Tribune for a while and the People's World and most any publication I could get to sell. The Times.

Q. Now, are you selling any newspapers now?

(Testimony of Ernie James Latham.)

A. I am.

Q. What paper?

A. The People's Daily World. [1645]

Q. Are you the man that stood up in the back of the room at the time a witness named Jackson was testifying this afternoon?

A. When they called for Latham, I'm the fellow. Maybe somebody else stood up. I was there once when they called my name.

Q. Well, when they called for Mr. Latham, you stood up? A. I did.

Q. You had a good look at Mr. Johnson who was on the stand at that time? A. I did.

Q. Is he the Mr. Jackson with whom you had these conversations to which you have testified?

A. Yes, he certainly is.

Q. What else have you done during the last year except sell newspapers?

A. Well, that's about all.

Q. What, if anything, else have you done?

A. I don't recall anything else.

Q. Do you want it to be understood that your sole means of livelihood during the last year has been from the sale of newspapers?

A. That is right.

Q. Now, with reference to these Green Sheets, one of which is Board's Exhibit 20, did those sheets help to sell the Los Angeles Examiner? [1646]

A. Well, I think that they probably did in some ways, to the horse players.

(Testimony of Ernie James Latham.)

Q. You never objected to selling them, did you?

A. Certainly not. I was making money out of them. Why should I?

Q. What do you mean by the expression "take a powder"?

A. It's a fellow that runs off with—after you have got a man on the corner he sells the papers and runs off with all the money and don't come and pay you for them.

Q. And when this off-spot man was put on your corner you told Mr. Jackson—Or, Mr. Jackson told you, did he, that if the off-spot man took a powder you would have to stand the loss?

A. He did. For me to watch him.

Q. Did you handle any other newspapers besides the Examiner at Florence and Figueroa Streets? A. No.

Q. During the years 1938 and 1939, down to July, 1939, did you sell any other newspapers besides the Los Angeles Examiner? A. No.

Q. As a matter of fact, at the time the Green Sheet—which is Board's Exhibit 20—was being sold by you there was a [1647] column in the Los Angeles Examiner itself containing selections of Mr. Moore, was there not?

A. Yes, but you had to have the Green Sheet to tell which horse—

Q. That is what I was coming to. The purchaser that purchased the Los Angeles Examiner could not read or determine what selections Mr. Moore was

(Testimony of Ernie James Latham.)

recommending unless such purchaser of the newspaper also purchased the Green Sheet; isn't that right?

A. Yes, that is what they tell me.

Q. Well, you saw that column in the Examiner at the time you were selling it, didn't you?

A. I did.

Q. And you weren't able to read that column without reference to the Green Sheet, were you?

A. Well, I never read the column.

Q. Did you say that the Green Sheet was given to you first at the time that there were horse races over at Santa Anita?

A. I said I wasn't for sure, but I think it was Santa Anita.

Q. You think it was Santa Anita?

A. Yes, Santa Anita or Hollywood, either one.

Q. Either Santa Anita or Hollywood?

A. That is right.

Q. Could it have been any other tracks? [1648]

A. No.

Mr. Hall: That is all.

Mr. Cosgrove: Will it be stipulated, Mr. Mouritsen, that the testimony of the witness Latham has no relation to the Los Angeles Times case?

Mr. Mouritsen: That may be so stipulated.

Mr. Compton: And may the same stipulation

be made on [1649] behalf of the Evening Herald and Express?

Mr. Mouritsen: Yes; that may be so stipulated.

Mr. L. B. Binford: And the same stipulation with relation to the Stockholders Publishing Company?

Mr. Mouritsen: So stipulated.